United States Court of Appeals for the Second Circuit



APPENDIX

IN THE UNITED STATES COO OF APPEAL 436

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

JERRY WINSTON, BROOME COUNTY AVIATION, INC., COMMUTER AIRLINES, INC., and THEODORE (TED) BELL,

Defendants-Appellants.

B

ON APPEAL FROM THE JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

APPENDIX - VOLUME 1

Pages la to 12a and 1 to 276

PAUL, WEISS, RIFKIND, WHARTON & GARRISON 345 Park Avenue
New York, New York 10022
Attorneys for Appellants



PAUL V. FRENCH
UNITED STATES ATTORNEY FOR THE
NORTHERN DISTRICT OF NEW YORK
United States Courthouse and Federal
Building
100 South Clinton Street
Syracuse, New York 13202
Attorney for Appellee

INDEX*

		Page
Docket Entries		18
Indictment		4a
Judgment (U.S.A. v. Jerry Winston)		9 a
Judgment (U.S.A. v. Theodore Bell)		10a
Judgment (U.S.A. v. Commuter Airlines, Inc.)		11a
Judgment (U.S.A. v. Broome County Aviation, Inc.)		12a
Trial Transcript		
Jury Selection		10
Opening Statement by Government		38
Opening Statement in Behalf of Jerry Winston, Commuter Airlines, Inc. and Broome County		
Aviation, Inc		47
Opening Statement in Behalf of Theodore Bell		50
John B. Willits		
Direct	: :	57 89

^{*} This Appendix consists of seven volumes. Volume 7 consists solely of the trial exhibits designated by the parties and is numbered le through 82e. The trial transcript is numbered 1 through 2166, and there are no pages 886 through 999 and 1486 through 1699. The docket entries, the indictment and the judgments are numbered la through 12a.

	bert Slo																									
	Direct .																								89	
	Cross																					•	•	•	109	
	Redirect																		•				•	•	170	181
	Recross												Ī	•	•	•	•	•	•	•	•	•	•		179	TOT
	Rebuttal										Ī	•	•	•	•	•	•	•	•	•	•	•	•	•	1043	
		-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	1942	
Ir	a Joseph	SOI	n																							
	Direct .																								100	
	Cross					•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	182	
	Redirect		•	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	190	
	Recross		•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	•		•	•		230	
	Recross.	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	٠	238	
	chael Ba																									
1	Direct .																								241	
-	Cross													-	•	•	•	•	•	•	•	•	•		244	
	Redirect										•	•	•	•	•	•	•	•	•	•	•	•	•	•	244	
			-	-	•	٠	•	٠	•	•	•	•	•	•	•	•	•	•	•	•		•	•	•	248	
	exander																									
1	Direct .																								251	
(cross																								260	
1	Redirect																							:	310	
																							•			
	nald Wil																									
I	Direct .																								311	
(Cross																							•	548	
1	Redirect																				•	•	•		598	
1	Recross.																	:	:	:	•	•	•	•	609	
																			•	•		•	•	•	003	
	nn Levan																									
I	Direct .																								311	
	iglas Tor																									
I	Direct .																								336	
(cross																				_				344	
I	Redirect																								351	
																			•	•	•	•	•	•	331	
	il Sholl																									
I	Direct .																								354	
(Cross													-					•	•	•	•	•	•	363	
F	Redirect												:	:	:	:		:	•	•	•	•	•	•	377	
													-	-	•	•	•	•	•	•	•	•	•	•	3//	
	lliam Lam																									
1	Direct .		•																						379	
-	ross																_		_						400	
1	Redirect																					_			43	
F	Recross.																								441	

Michael Kl																									
Direct .																								474	
cross																								498	
Redirect			•	•	•		•	•		•												:		525	
Dennis Lar	imo	ore	4																						
Direct .																								610	
Cross					•	•	•	•	•	•	•	•	•	•	٠	•	•	•	•	•	•	•	•	619	
Redirect	-	•	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	629	
Recross.	:	:	:	:	:	:	:	:	:	:	:	:	:	:	•	•	•	•	•	•	•	•	•	654,	668
James Humme											Ī	·	·	·	•	•	•	•	•	•	•	•	•	001	
Direct .	•		•			•																		669	
Cross																								687	
Redirect																								739,	748
Recross.	•	•	•	•	•	•	•																	746	
Jan Solbero	1																								
Direct .				_																				749	
Cross			-		-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		
Redirect	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	٠	•	٠	•	•	•	764	
Redirect	•	•	•	•	•	•	•	•	•	•	•			•	•	•		•	•					794	
Recross	•	•	•	•	•	•	٠	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	794	
Paul E. Bri	Laa	IS																							
Direct .																									
Cross	•	•	•	-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	٠	•	•	796	
Redirect	•	•	•	•	•	•	•	•	•	•	•	•	•	٠	•	•	•	•	٠	•		•		810	
Redirect	•	•	•	•	•	•	•	•	•	•	•	•	٠	•	٠	٠	•	•	•		•			840	
Recross.	•	•	•	•	•	•	٠	•	•	•	•	•	•	•	•	•	٠	•	•	•	•	•		845	
John Levan																									
Direct .																								850	
																								850	
Government	Re	st	s	-	٠	٠	•	•	•	•		•	•		•		•		•					863	
Motions for	T	he		95	+-		+	20				. 7													
			9				-	A	-40			-	•	•	•	•	•	•	•	•	•	•	•	863	
	[T	he.	re	a	re	n	0	pa	ige	es	88	86-	99	9]											
Th 1																									
Theodore Be																									
Direct .	•	-																						1001	
Cross in	se	na.	TI	0	I	ot	ne	T	de	fe	no	an	ts	-	_									1102	1144
Cross in	Be	ha.	lf	0	f	Go	ve	II	ıme	nt	:.													1148	
Charles G.																									
Direct .			•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	1113	
Cross		•	•	•		•		•	•	•		•		•	•									1126	

William	Pu	SZ	ta	i																						
Dir																								1	245	
Cros																		•	•	•	•	•		1	254	
Redire	ect																	•	•	•	•	•		7	266	
										-	•	•	•		•	•	•	•	•	•		*		-	600	
Frederic	ck :	L.	M	ai	ze																					
Direct	: .																							1	267	
Cross.															•	•	•	•	•	•	•			1	270	
								-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	-	2/0	
Jon Herr	in	qt	on																							
Direct																								,	247	
Cross.											•	•	•	•	•	•	•	•	•	•	•			1	247	
			-	-	-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	1	298	
Arthur W	lar	ne	r.	J	r.																					
Direct																								,	200	
Cross.											•		•		•	•	•	•	•	•	•	•		1	308	
			-	•	•	•	•	•	•	•	•	•	•	•	•	•	•			•	•	•		Τ.	325	
Hugh T.	Mad	cDe	ouc	Ta!	ld																					
Direct																										
Cross.						•	•	•	•	•	•	•	•	•	•	*	•	•	•	•	•	•	•	+	335	
				•	•	•	•	•	•	•	•	•	•	•			•	•	•	•	•	•		Τ.	32T	
Donald R	ee	ve																								
Direct																								1	261	
Cross.				•	•	•	•			•	•	•	•	•	•	•	•	•	•	•	•	•		1	301	
	-	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	•			•	•	•	1.	36/	
Mary Per	son	ıs																								
Direct																									200	
Cross.						-	•	•	•	•		•	•	•	•	•	•	•	•	•	•	•		1:	380	
	-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	•	Τ.	184	
Jerry Wi	nst	to	1																							
Direct							_		_															1.	000	1450
				-	•	•	-	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•			1705
Cross	in	Be	eha	111	= 0	of	G	ove	-	me	an+													10	1/0,	1/05
Redire	ct				. `							-		•		•	•		•	•	•	•	•	10	117	1026
			-	•	•	•	•	•	•	-	•	•	•	•	•	•	•	•	•	•	•	•		13	11,	T320
				IT	he	ere		are	- r	10	na	acte	20	14	186	5-1	60	101								
				•							2.	-3-		-				,,,								
William	Feb	e	-																							
Direct													_	_										1.4	110	
Cross.										-						•	•	•	•	•	•	•	•	1	21	
								-	-	-	•	•	•	•	•	•	•		•	•	•	•	•	14	121	
James Mc	Kir	ile	ey																							
Direct																								1.4	20	
Cross.													-	-				•	•					1.4	21	
Redire	ct					-			-			•	•		•	•	•			•	•	•		1.4	47	
Recros	s.				-	-	-		-	•							•	•	•	•		•		14		
					•	•		•			•	•	•		•	•	•			•		•	•	14	4/	
Lawrence	Fi	sh	1.	Jr																						
Direct																								2.4	60	
Cross.									-						•	•		•	•			•		14	75	
		-	-	-																				14	13	

Summation	in Be	half	of	Go	vern	mer	ıt												1951
Summation	in Be	half	of	The	eodo	re	Be.	11.											1997
Summation Commuter County A	Airl	ines	, II	ic.	and	Br	100	ne											2038
Further Su	mmatl	on 1	n Be	ena.	ir o	re	OV	ern	mei	nt	•	•	٠	•	•	•	•	•	2085
Charge to	the J	ury.				٠													2103
Jury Quest	ion .												,						2158
Verdict .																			2160
		,	Deci	an :	****	m~	-d -	יש ו	h.		٠.								
					ated							-							
Government Mediation	n Boa	rd to	o Je	erry	Wi Wi	nst	on	, 0	cto	be	r								
16, 1970						•	•			٠	•	•		•	•	•			le
Government	Exhi	bit :	2 -	Not	tice	of	E.	lec	tic	on								٠	2e
Government	Exhi	bit	3 -	App	plic	ati	on	, 0	cto	be	r	2,	1	97	4				6 e
Government	Exhi	bit	6 -	Tel	Legr	am,	00	cto	bei	2	5,	1	97	4					7e
Government Mediation	Exhi n Boa	bit rd to	7 - o Je	Let	ter Wi	fr	om	Na	tic	ona	1	29	,	19	74				8e
Government	Exhi	bit	8 -	Not	ice	an	id I	Rul	es	of	E	le	ct	ic	n				9e
Government	Exhi	bit !	9 -	Not	cice	an	d I	Rul	es	of	E	le	ct	io	n				10e
Government to Nation	Exhibat Mo	bit :	l) -	- Le	ette	r f	ror	n Jo	eri	Ý,	Wi J	ns 97	to 4	n •					14e
Government Mediation													,	19	74				16e
Government December	Exhilator 1	bit :	14 -	- Ce	erti •••	fic	ati	ion	' .										17e
Government National	Exhil Medi	bit :	15 -	Le	ette i, D	r f	ron	n Co	our	ise 19	1 74	to							19e

Government Exhibit 16 - Affidavit of Jerry Winston, December 7, 1974	21e
Government Exhibit 17 - Letter from Counsel to National Mediation Board, December 13, 1974	23e
Government Exhibit 18 - Letter from Counsel to National Mediation Board, December 27, 1974	25e
Government Exhibit 19 - Affirmation of Paul Floto, January 2, 1975	26e
Government Exhibit 20 - Affirmation of Michael Kleitz, January 3, 1975	27e
Government Exhibit 21 - Affirmation of Jan Solberg, January 7, 1975	28e
Government Exhibit 22 - Letter from National Mediation Board to Counsel, January 9, 1975	29e
Gov Inment Exhibit 25 - Memorandum F.om Theodore Bell to pilots, September 5, 1974	3le
Government Exhibit 28 - Letter from Jerry Winston to Teamster's Local representative, December 23, 1974	34e
Government Exhibit 29 - Letter from Jerry Winston to Teamster's Local representative, January 3, 1975	35e
Government Exhibit 35 - Memo from Company to pilots, April 26, 1972	36e
Government Exhibit 39A - Chart	38e
Government Exhibit 40 - Chart	40e
Government Exhibit 41 - Memo	4le
Government Exhibit 42 - Memo from Toodore Bell to Ronald Williams	42e
Government Exhibit 43 - Memo, December 31, 1974	43e
Government Exhibit 46 - Broome County Aviation, Inc., Commuter Airlines, Inc. Financial Statements, December 31, 1974	44e

Inc., Commuter Airlines, Inc. Financial	
Statements, December 31, 1975	59e
Defendants' Exhibit Z - Memo from Marc Winston to Jerry Winston	75e
Defendants' Exhibit A-1 - Request for Instructions	76e

CRIMINAL DOCKET

TI	TLE OF CASE		1	ATTORNETS	
THE U	NITED STATES		For U.S.:		-
Broom Commut	vs. Winston County Avaiation ter airlines, Incheodore (TED) Rel		Hon, Jam Arthur A	es M. Sulliv . Chalenski,	an_
	and the second s	OP = 1 5 1976 A DAMEL FISHED OUR SECOND CARC	Washing	rd. Levy & F	
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISE
J.S. 2 mailed	Clerk				-
J.S. 3 mailed	Marshal				T
Violation of railway laboret Title 18 USC 371 45 USC 152 S&c. 45 USC 152(3),(4) and (10)	Docket fee				
DATE	P	ROCEEDINGS		111	T,
	nt in vio T-18USC	371; T-45	USC 152; T- ailway labo	45 USC 152 Cor act 17 co	M.

PROCEEDINGS

3/26/75 enlarsement on Motion Papers. Government has 20 days to supply materi 8/29/75 Filed Order signed by Judge Port 8/29/75 Filed Memorandum of Law 9/15/75 Filed Motion for Continuance of Trial - Mr. Richards moves for a continuance of the trial to November on Grounds states. Motion granted after oral argument. 10/3/75 Filed letter from R. Richards requesting a continuance for Nov. term.
9/18/75 Filed Memorandum of Law 9/18/75 Filed Motion for Continuance of Trial - Mr. Richards moves for a continuance of the trial to November on Grounds states. Motion granted after oral argument. 10/3/75 Filed letter from R. Richards requesting a continuance for Nov. to The continuance of the trial to November of Grounds states.
9/18/75 Filed Notion for Continuance of Trial - Mr. Richards moves for a continuance of the trial to November on Grounds states. Motion granted after oral argument. 10/3/75 Filed letter from R. Richards requesting a continuance for Nov. town
9/24/75 Motion for Continuance of Trial - Mr. Richards moves for a continuance of the trial to November on Grounds states. Motion granted after oral argument. 10/3/75 Filed letter from R. Richards requesting a continuance for Nov. to me.
of the trial to November on Grounds states. Motion granted after oral argument. 10/3/75 Filed letter from R. Richards requesting a continuance for Nov. to a
10/3/75 Filed letter from R. Richards requesting a continuance for Nov. to
10/3/75 Filed letter from R. Richards requesting a continuance for Nov. to-
walving right to speedy trial.
10/7/75 N Filed Notice of Readiness for Trial
11/12/75 Over the term at request of defts. Time excluded
_3/2/76 Call March 16, 1976
3/15/76 Filed Memorandum of Law for Winston, Broome County Aviation and
3/16/76 VFiled Affidavit of Asst. U. S. Attorney
3/19/76 Filed Affirmationsigned by Rodney Richards.
3/19/76 Filed Memorandum, Decision & Order of Judge Foley ordering case at
the head of the Criminal Calendar in Auburn in May.
5/14/76 Filed Notice of Motion for Production of Subpoenaed Documents, returnal May 24 at Utica, N.Y.
5/20/76 Filed Affidvait in opposition to motion for production of
subpoenaed documents.
5/24/76 Motion for production of documents - counsel heard in argument
Judge Port directs the production of all personnel records sought
commencing from 8/1/74 up to 7/2/75. Records to be deposited with
the cierk.
5/27/76 Filed Notice of Motion returnable June 1 for Order quashing the Subpoer
po produce document .
6/1/76 Filed Government's proposed instructions. 6/1/76 Trial-jury drawn and sworn. Witnesses for Gov't
6/1/76 Trial-jury drawn and sworn. Witnesses for Gov't. 6/2/76 Trial continued.
6/3/76 Trial continued
\$6/4/76 Trial continued/
6/7/76 Trial continued.
Indictment also 9th Overt Act-granted. Mr Shanahan moves to dismiss
Count 1 of Indictment on grounds states-denied. Mr. Richards moves to dismiss the Indictment on grounds states-denied.
6/9/76 Trial continued
6/10/76 Trial continued
6/11/76 Trial continued.
6/14/76 Trial continued
6/15/76 Trial continued- Mr. Shanahan moves to dismiss on grounds stated-
Filed Court Exhibit 4 and Filed Court Exhibit 5
6/16/76 Trial continued-Mr. Chalenski sums up. Mr. Shanahan sums up.
Mr. Alchards Sums up - Mr Chalencki rehuttal
6/17/76 Judge MacMahon charges Jury from 10:20 to 12:19. Guards for jury sworn
The state of the s
all counts. Jury is polled Sentencina and c
in Auburn. Mr. Shanahan moves to set aside verdict on grounds stated-de: Mr. Richards moves to set aside verdict on grounds stated-de: Presentence investigation is evident.
Presentence investigation is ordered.

7.	- MOCEEDINGS
7/2/	76 V Filed Request to Charge: Filed Trial Memorandum: Filed Memorandum
,	of Law. Filed Trial Memorandum: Filed Memorandum
9/16/	1 The Court advised deft Jorn William Co.
	defendant speaks, his attorney speaks. The defendant is committed to the
	custody of the Atty Con or his authority deletion is committed to the
	fifteen days and fined ss oon on
	fifteen days and fined \$5,000.00 on each of Counts 1 thru 8 and 10 thru 16. The
	prison sentences on each count are to run concurrently with each other, and fines in on each count are to run consecutively to each other for a teach other.
	on each count are to run consecutively to each other for a total fine of \$75,000.00.
	Stand committed until fine paid. On motion of Attorney Rodney A. Richards the
	deft. is released on his own recognizance, pending appeal. Payment of fine stayed pending appeal. Deft. Advised of his right to arread
9/17/76	pending appeal. Deft. Advised of his right to appeal. Payment of fine stayed Filed Judgment - Stayed
	Filed Judgment - Stayed -pending appeal.
9/16/76	Delt. Conflicter All'ince inc
	10 thru 16, the fines to run consecutively with each other for a total fine of
	\$15,000.00. Fine is stayed pending appeal.
9/17/76	111ed Judgment - nayment of fine is stayed regular
9/16/76	
	and 10 thru 16, the fines to fined S1,000.00 en each of Counts 1 thru 8
	and 10 thru 16, the fines to run consecutively with each other, for a total fine of
9/17/76	Filed Judgment - naument of Silved pending appeal.
9/16/76	Filed Judgment - payment of fine is stayed pending appeal. Defendant Theodora Pall
	fendant speaks, his attorney speaks. The defendant is hereby committed to the
	custody of the Attorney General or his authorized representative for imprisonment
	for a period of six (6) months on Count 1. Execution of sentence is suspended, and the defendant is placed on probation for a period of six (6) months and
	the defendant is placed on probation for a period of six (6)months, subject to
	the provisions of the standing probation order of this court. Deft. is advised of
0/17/76	Mis right to appeal. Deft. is advised of
3/11/16	Filed Judgment - oppies Probation office.
	clied Notice of Appeal for defe-
-	Filed Notice of Appeal for defts. Jerry Winston, Broome County Avia.
9/24/	76 Filed Notice of Appeal for deft. Theodore Bell
	• Theodore Bell
	5
D. C. 100 -	
D. C. 109 Crim	inal Continuation Sheet

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

VS.

JERRY WINSTON; BROOME COUNTY AVIATION, INC.; COMMITTER AIRLINES, INC.; and THEODORE (TED) BELL.

INDICTMENT

Criminal No. 75 CRES

VIO: 18 USC 371, 45 USC 152, 45 USC 152(3), (4), (10)

(17 Counts)

COUNT I

THE GRAND JURY CHARGES:

- AVIATION, INC., was a corporation duly established under the laws of the State of New York, with a usual place of business at Binghamton, in the Northern District of New York, and was a common carrier by air engaged in interstate commerce within the meaning of Sections 152, 181, and 182 of Title 45, United States. Code.
- AIRLINES, INC., was a corporation duly established under the laws of the State of New York, with a usual place of business at Binghamton, in the Northern District of New York, and was a common carrier by air engaged in interstate commerce within the meaning of Sections 152, 181, and 182 of Title 45, United States Code.
- 3. At all times mentioned herein the defendant JERRY WINSTON was President of BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES INC.
- 4. At all times mentioned herein the defendant THEODORE (TED)
 BELL was chief pilot of BROOME COUNTY AVIATION, INC., and
 COMMUTER AIRLINES, INC.

- 5. Beginning in August 1974, exact date to the grand jury unknown, the pilots and co-pilots (employees) of BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC., attempted to organize and did organize and did attempt to bargain collectively through a representative of their own choosing.
- 6. From on or about October 3, 1974, and continuing through the date of the filing of this indictment, in the Northern District of New York, the defendants, JERRY WINSTON, BROOME COUNTY AVIATION, INC., COMMUTER AIRLINES, INC., and THEODORE (TED) BELL, did unlawfully, wilfully, and knowingly combine, conspire and agree among themselves and with each otherand with other persons unknown to commit the following offenses against the United States:
 - (a) to interfere with, influence, and coerce the employees of the defendants, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC., in the employees' choice of representative;

in violation of paragraph Third of Title 45, United States Code, Section 152; and

(b) to interfere with the organization of the employees of the defendants, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC., and to influence and coerce said employees not to join or remain members of a labor organization;

in violation of paragraph Fourth of Title 45, United States Code, Section 152.

7. The means by which the defendants would carry out this conspiracy included communicating threats of reprisal if their employees should organize, requesting their employees to deliver their National Mediation Board ballots to the defendants and thereby to vote against organization, and firing and terminating from employment several pilots and co-pilots.

THE CASE AVERAGE

OVERT ACTS

- 1. On or about October 4, 1974, JERRY WINSTON, BROOME COUNTY AVIATION, INC., COMMUTER AIRLINES, INC., and THEODORE (TED) BELL fired Ira Josephson, Robert Slough, and Michael Bean.
- 2. On or about October 4, 1974, JERRY WINSTON, BROOME COUNTY.

 AVIATION, INC., and COMMUTER AIRLINES, INC., called meetings of
 all pilots and co-pilots at which JERRY WINSTON made statements
 against organizing and THEODORE (TED) BELL told pilots and
 co-pilots that they would have tough check rides if they favored
 organization.
- 3. During or about November of 1974, JERRY WINSTON,
 BROOME COUNTY AVIATION, INC., COMMUTER AIRLINES, INC., and
 THEODORE (TED) BELL met with pilots and co-pilots individually
 and solicited their National Mediation Board ballots.
- 4. On or about December 9, 1974, Paul Sholl was fired by JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC.
- 5. On or about December 13, 1974, William Lamos was fired by JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC.
- 6_ On or about January 9, 1975, Ronald D. Williams was fired by JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC.
- 7. On or about February 17, 1975, Dennis Larimore was fired by JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC.
- 8. On or about February 19, 1975, James Hummel was fired by JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC.
- 9. On or about April 18, 1975, R. Paul Floto was fired by JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES INC.:
 - All in violation of Title 18, United States Code, Section 371

COUNTS II through IX

THE GRAND JURY realleges and incorporates paragraphs 1 through 4 of Count I, and further charges that, on or about the dates hereinafter specified in Counts II through IX, in the Northern District of New York, the defendants, JERRY WINSTON, BROOME. COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC., did knowingly and wilfully fail and refuse to comply with the terms of paragraph Third of Title 45, United States Code, Section 152, in that the said defendants did interfere with, influence, and coerce their employees in their employees' choice of their representative by firing the respective employee pilot or co-pilot hereinafter described in Counts II through IX.

COUNT	Date	Employee
II	October 3, 1974	Ira Josephson
III	October 3, 1974	Robert Slough
IA	December 9, 1974	Paul Sholl
Ψ.	December 13, 1974	William Lamos
VI	January 9, 1975	Ronald D. Williams
VII	February 17, 1975	Dennis Larimore
VIII	February 19, 1975	James Hummel
IX	April 18, 1975	R. Paul Ploto.

All in violation of Title 45, United States Code, Section 152, Paragraphs Third and Tenth.

COUNTS X and IX

THE GRAND JURY realleges and incorporates paragraphs 1 through 4 of Count I, and further charges that, on or about October 3, 197% in the Northern District of New York, the defendants, JERRY WINSTON BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC., did

and the state of t

knowingly and wilfully fail and refuse to comply with the terms of paragraph Fourth of Title 45, United States Code, Section 152, in that said defendants did interfere with the organization of their employees and did influence and coerce their employees not to join a labor organization by firing the employee pilot or co-pilot hereinafter described in Counts X and XI.

COUNT	Employee
x	Ira Josephson
XI	Robert Slough.

All in violation of Title 45, United States Code, Section 152, paragraphs Fourth and Tenth.

COUNTS XII through XVII

THE GRAND JURY realleges and incorporates paragraphs 1 through 4 of Count I and further charges that, on or about the dates hereinafter specified in Counts XII through XVII, in the Northern District of New York, the defendants, JERRY WINSTON, BROOME COUNTY AVIATION, INC., and COMMUTER AIRLINES, INC., did knowingly and wilfully fail and refuse to comply with the terms of paragraph Fourth of Title 45, United States: Code, Section 152, in that said defendants did interfere with the organization of their employees and did influence and coerce their employees not to remain members of a labor organization by firing the respective employee pilot or co-pilot, hereinafter described in Counts XII through XVII.

COUNT	Date	Employee
XII	December 9, 1974	Paul Sholl
XIII	December 13, 1974	William Lamos
XIV	January 9, 1975	Ronald D. Williams
XV	February 17, 1975	Dennis Larimore
ZVI	February 19, 1975	James Hummel
XVII	April 18, 1975	R. Paul Floto.

All in violation of Title 45, United States Code, Section 152, paragraphs Fourth and Teath.

A TRUE BILL

JAMES M. SULLIVAN, JR. United States Attorney Federal Bldg.

Syraque, No Y 1320

Section.

ARTHUR A. CHALENSKI.

FOREMAN OF THE GRAND JUR

THE COURT ARM VARIANT COLONSEL SERTING SERTING SERTING ORGAN ADDITIONAL COMMITTIANAL COMMITTI			
THE CONTESTS CONTINUE TO THE PROPERTY AND PROCESSING CONTINUES CONTINUES CONTINUES In the presence of the attorney for the government the defendant appared in purson on the date September 16 Se	United States	of America vs. United States	District Co
In the presence of the attorney for the government in the presence of the attorney for the government in the defendant appeared in purson on this date COURSEL	DEFERGANT	L Jerry Winston L Morthern Dis	trict of New Yo
THE COURSEL WITHOUT COUNSEL WITHOUT COUNSEL WITHOUT COUNSEL WITHOUT COUNSEL WITH		000NET NO.	75-CR-83
THE COUNTERL WITHOUT COUNSEL WITHOUT COUNSEL WITHOUT COUNSEL WITHOUT COUNSEL WITH		UDGMENTANDEPROBATION/COMMUTMEN	n ond in
WITHOUT COUNSEL Newword the court advised for makes of right to common and stake deather contents appeared by the court and the defendant Chromoson valued assistance of count there is a factual basis for the plea. (Name of counties)		In the presence of the attorney for the government	MONTH DAY
FINGULES STETIAL COURTINGS Committee the special conditions of probation imposed shows, it is nonthly conducted that discussion is court agreed to the first paid.	COUNSEL		September 16
THROUGHE A COMMETTIONS OFFICIAL CONSISTINGS PECIAL CONSISTINGS DESCRIPTIONS OFFICIAL CONSISTINGS TO COMMETTINGS OFFICIAL CONSISTINGS TO COMMETTINGS OFFICIAL CONSISTINGS The court cannot be special conditions of probletom imposed above, it is hereby ordered that the precedition of probletom of probleto		have coursel appointed by the court and the defendant chereup	en waired smittages of couns
There he a factual basis for the plea. NOT GUILTY. Defendant in discharge. There he being a fine ingress of the offense(s) of victation of Railway Labor Ac and conspiracy. In violation of Title 18, USC \$371: Title 45, USC \$\$152, ISZIS (4), (10). The court akade in briber defendant had anything to say why indeplease show, not be prenounced. Secans no sufficient cases to the store, the court ability of the distinct of the store of the Atterness of fifteen (15) days and fined \$5,000.00 on each of Counts. In three 8 to the court and the fir imposed on each count are to run concurred one accordant and otherwise the store of the Atterness on each count are to run security to each other, and the fir imposed on each count are to run security to each other, for a total fine of \$75,000.00. Stand committed until fine paid. On motion of Atterness appeal. (auxiliation to the special conditions of probasion imposed appeal. (auxiliation to the special conditions of fire appeal. (auxiliation to the special conditions of probasion removed above, it is hereby ordered that the green's modifient of any unit study of the Attorness are conditions of probasion removed any units study in the court orders committeent to the custody of the Attorney General and recommends. The court orders committeent to the custody of the Attorney General and recommends. It's consistent to the any order of the first of the special load of the count of the special		(Name of course)	
Defendant has been convicted as charged of the offerme(s) of vicilation of Railway Labor Actions and conspiracy. In violation of Title 18, USC \$371: Title 45, USC \$\$152; ISZID (4), (10) The court saked whicher defendant had anything to any why indepment should, not be promounced. Secures no sufficient causes we shown, or appared to the court, the court adjudged the defendant guidry as charged and convexited and entered that The first feel of the court and the security as charged and convexited and entered that The membry communication on each and the representative for inspectation for partial of, if the each other, and the first imposed on each count are to run violated to the court and the first imposed on each count are to run security by the each other, and the first imposed on each count are to run security by the each other, for a total fine of \$75,000.00. SENTENCE OF THE STANDARD COMMITTIONS OF THE STANDARD COMMITTION OF THE STANDARD COMM	PLEA	GUILTY, and the court being satisfied that NOLO CONTENDERE, there is a factual basis for the plea,	LY_ HOT GUILTY
The court maked whether defendant had anything to make your producted as charged of the offerme(s) of vicilation of Railway Labor Actions and conspiracy. In violation of Title 18, USC \$371: Title 45, USC \$\$152; ISZIJI The court maked whether defendant had anything to make your why independent should, not be pronounced. Securise no sufficient causes us subown, or appared to the court, the court adjudged the defendant guilty as charged and convexited and entered that The interedy commented to me caused of the Atterney General of measurements for insupercomment for appared and convexited and convexit	==	NOT GUILTY. Defendant is dischar	
In violation of Title 18, USC \$371: Title 45, USC \$\$152; ISTIT (4),(10). The court aked *hither defendant had anything to say why judgment show; not be prenounced. Because no sufficient cases or hereby committed to the court, the court sajudged the defendant gustry as charged and convention and ordered that The fifteen (15) days and fined \$5,000.00 on each of Counts. I thrus 8 10 thru 16. The prison sentences on each count are to run concut with each other, and the fir imposed on each count are to run concut securively to each other, for a total fine of \$75,000.00. PROBATION STANDAY TO STANDAY		There being a finding verdict of	
In violation of Title 18, USC \$371: Title 45, USC \$\$152; ISTITE (4),(10). This court alased *hirther defendant had anything to say why judgment show, not be prenounced. Section no sufficient cases in was shown, or appared to the court, the court sajudged the defendant guilty as charged and convention and ordered that The horsely committed to the courts of the Attention General on the authorized of the Attention of the superior of the Attention of the superior of the Attention of the court are to run concult with each other, and the fir imposed on each court are to run concult with each other, and the fir imposed on each court are to run concult of the court		Defendant has been convicted as charged of the offense(s) of	
This court maked whicher defendant had anything to may why judgment shows, not be pronounced. Secance no sufficient came as the state of the court adjudged the defendant guality as charged and consecuted and ordered that the interest committed to the custody of the Attorney General or his authorized representative for improvement for approximation for the period of the attorney General or his authorized representative for improvement for approximation. The prison sent notices on each count are to run concut with each other, and the fir imposed on each count are to run concut vith each other, and the fir imposed on each count are to run security expenditure. SERTENCE ORDER PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation are change the conditions of probation, reduce or extend the period of probation for a viruation occurring during the probation period of real virus during the probation period of probation period of the virus permitted by two, may issue a werean probation for a viruation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Cart as committees to the understant to the commitment to the custody of the Attorney General and recommends.	_	and conspiracy.	allway Labor Ac
The court mand + heither defendant had anything to say why independ thout, not be prenounced. Because no sufficient cause as shown, or appeared to the court, the court adjudged the defendant guity a charged and convected and ordered that The hereby committed to the custody of the Attorney General or his authorised representative for improvements for a period off. SERTERCE OR SERTERCE OR PROBATION ORDER ADDITIONAL CONDITIONAL CONDITIONAL CONDITIONAL OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation appeal. I auxiliary that the defendent is a released on the conditions of probation are the period of oreas are time that the period of oreas are time that the period of oreas are time the period of oreas are time that the period of oreas are time that the period of oreas are time that the conditions of probation period of rebustions period of reb		(4),(10).	£ \$\$152,. 152(3)
ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general remaind of probation in the special conditions of probation period of reverse under of the special conditions of probation period of the special occurring during the probation period of the system period of the special occurring during the probation period of the system			To Lame
ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general remaind of probation in the special conditions of probation period of reverse under of the special conditions of probation period of the special occurring during the probation period of the system period of the special occurring during the probation period of the system			41.00
ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general remaind of probation in the special conditions of probation period of reverse under of the special conditions of probation period of the special occurring during the probation period of the system period of the special occurring during the probation period of the system		The court asked whether defendant had anything to say why judgment shows, not be pronounced.	Sécause no sufficient cause ce
SERTENCE OR PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is in the special conditions of probation in the special conditions of probation in the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation in the special conditions of probation in the special conditions of probation in the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reverted under the probation of probation in the special conditions of probation in the special			
Secutively to each other, for a total fine of \$75,000.0Q. Stand committed until fine paid. On motion of Attorney Rodney. Richards the defeate t is released on his own recognical penal appeal. (auxiliary appeal) SPECIAL CORDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation revenue sale of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period. The court orders committeent to the custody of the Attorney General and recommends. It is ordered that the Continue and a commitment to the custody of the Attorney General and recommends. It is ordered that the Continue and commitment to the custody of the Attorney General and recommends.		10 thru 16. The orison sentances as said each of C	ounts 1- thru 8
Stand committed until fine paid. On motion of Attorney Rodney Richards the defeat t is released on his own recogning pend appeal. Appeal appeal. Appeal to the special conditions of probation imposed above, it is hereby entered that the general conditions of probation revenue and in this judgment be imposed. The Court may change the conditions of probation, reduce or stated the pend of probation for a violation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Court and recommends to the court may change the conditions of probation for a violation occurring during the probation period.	SENTENCE		
Richards the defeat t is released on his own recognitions of penalting appeal. SPECIAL CORDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation any time during the probation are the conditions of probation, reduce or extend the period of probation any time during the probation period or within a mauritum probation period of the years permitted by law, may issue a warrant factor ordered that the court orders cummitteent to the custody of the Attorney General and recommends. It is ordered that the Clerk a continue or the custody of the Attorney General and recommends.			
ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby entered that the general conditions of probation any time during the probation period of writin a maximum probation of probation, reduce or extend the period of probation period of writin a maximum probation period of the years permitted by law, may issue a warrant to the court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk a commitment to the custody of the Attorney General and recommends.			torner Rodney
ABOITTORAL In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation in any internal sale of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of which a maximum probation period of the years permitted by law, may issue a warrant to the court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk a commitment to the custody of the Attorney General and recommends.		appear. rayment of fine stayed bendering	alshear
ABOITTORAL In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation in any internal sale of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of which a maximum probation period of the years permitted by law, may issue a warrant to the court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk a commitment to the custody of the Attorney General and recommends.		()	1
ABOITTORAL In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation in any internal sale of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of which a maximum probation period of the years permitted by law, may issue a warrant to the court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk a commitment to the custody of the Attorney General and recommends.			
ADDITIONAL CONDITIONS In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation reverse sade of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period. The court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk a contribution of the constitution of th			
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reversed and of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of within a maximum probation period of five years permitted by law, may issue a warrant probation for a violation occurring during the probation period. The court orders committees to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this		* *** * ***	411 " 10-14". " I
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reversed and of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of within a maximum probation period of five years permitted by law, may issue a warrant probation for a violation occurring during the probation period. The court orders committees to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this	PROBATION		
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reversed and of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of within a maximum probation period of five years permitted by law, may issue a warrant probation for a violation occurring during the probation period. The court orders committees to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this			
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reversed and of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of within a maximum probation period of five years permitted by law, may issue a warrant probation for a violation occurring during the probation period. The court orders committees to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this			, 5 - 1.
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reversed and of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of within a maximum probation period of five years permitted by law, may issue a warrant probation for a violation occurring during the probation period. The court orders committees to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this			
In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation is reversed and of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation period of within a maximum probation period of five years permitted by law, may issue a warrant probation for a violation occurring during the probation period. The court orders committees to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this	ADDITIONAL	·	be a second
The court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk a certified copy of this is and commitment to the	COMDITIONS	in addition to the special conditions of probation imposed above, it is hereby ordered that the parent reverse sale of this judgment be imposed. The Court was above, it is hereby ordered that the parent	of conditions of droketion w
The court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk RECOMMEN-		any time during the probation period or within a maximum probation period of five years permetted probation for a violation occurring during the probation period.	or extend the period of proba
DEMNITTMENT ACCOMMEND IT is ordered that the Clerk ACCOMMEND and commitment to the U	1		F-1 1/1 - 1/1 - 1/1
RECOMMEN-		to the custody of the Attorney General and recommends.	
and commitment to the U	-	1 15 W.	mid-interest in
- 9-16-TG 11		~ 45 to 12.	A certified copy of this ju
- 9-16-TG 11	RECOMMEN-		and commitment to the U.
- 9-16-76 11	RECOMMEN-		and commitment to the U.
- 9-16-TG 11	RECOMMEN-		and commitment to the U.
- 9-16-76	RECOMMEN-	10 11 -11 -11 1	It is ordered that the Clerk a certified copy of this ju and commitment to the U that or other quantied office
- 7-10-16: 11	COMMETTMENT RECOMMENDED OF THE STATE OF THE	- Land of Mer Mobert	and commitment to the U.
	RECOMMEN-	Land of War Males	and commitment to the U.

DEFEROART	LTheodore (Ted) Rell LNorthern District of New York
5	JUDGMENT AND PROBATION/COMMENT ORDER
COUNSEL	In the presence of the attorney for the government the defendant appeared in person on this date September 16, 197 WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desire have counsel appearated by the court and the defendant thereupon warved assusance of counsel. WITH COUNSEL Paul R. Shanahan by Rochey A. Richards (Name of counsel)
PLEA	GUILTY, and the court being satisfied that NOLO CONTENDERE, NOT GUILTY there is a factual basis for the plea,
FINDING &	There being a finding verdict of Lx: GUILTY. Defendant is discharged Defendant has been convicted as charged of the offense(s) of violation of Railway Labor Act a conspiracy. In violation of Title 18, USC\$371: Title 45, USC\$\$ 152, 152(3), (4)
SENTENCE OR PROBATION ORDER	The court asked whether defendant had anything to say why sudgment should not be pronounced. Because no sufficient cause to the court, was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defend hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of six (6 months on Count 1. Execution of sentence is suspended, and defendant is placed on probation for a period of six (6) months, subject to the provisions of the standing probation order of this court.
OF	
CONDITIONS. OF PROBATION ADDITIONAL CONDITIONS OF	reverse side of this judgment be impossed. The Court may change the conditions of probation, reduce or extend the period of probation, a any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and reprobation for a violation occurring during the probation period.
CONDITIONS OF PROBATION ADDITIONAL CONDITIONS	In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out or revers side of this sudgment be imposed. The Court may change the conditions of probation, reduce or existed the period of within a maximum probation period of five years permitted by law, may issue a warrant and reprobation for a violation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends. It is ordered that the Clerk delive a cartified copy of this judgment and commitment to the U.S. Maishall or other qualified officer.

United States	f America .*	United States.	District C
	L Broome County Aviation Inc	L Northern Dist	cict of New Yo
DEFERDANT	<u> </u>		
	/	OOCKET NO.	75-CR-83
	TUDGMENT AND TESTED	COMMITMEN	POLIDERS
	In the presence of the attorney for the government the defendant appeared in person on this date		MONTH DAY
COUNSEL			September 16
- COURSEL	have counsel appointed by	sed disferdant of right to coursel a the sourt and the defendant thereupo	
	LX WITH COUNSEL LROCKEY & Rich	(Name of course)	
PLEA	GUILTY, and the court being satisfied that	NOLO CONTENDERE,	X NOT GUILT
	there is a factual basis for the plea,		
	There being a frading/verdict of	TY. Defendant is discharged	
	(GUILTY.		
FINDING &	Defendant has been convicted as charged of the offense	(s) of violation of Ran	lway Labor Ac
JUDGMENT	In violation of Title 18, USC§3 (4),(10).	71: Title 45, USC	\$152, :152(3)
	The court asked whether defendant had anything to say why ji was shown, or appeared to the court, the court adjudged the	judgment should not be pronounced. E	ecause no sufficient cases
SENTENCE	Fine is stayed pending appeal.		e of \$15,000.
OR PROBATION. ORDER	>		e or \$13,000.
/	>		2 07 313,000.
PROBATION.	>		2 07 313,000.
PROBATION.	>		
PROBATION. GRDER SPECIAL CONDITIONS OF	> appear.		- 01 313,000.
PROBATION ORDER			
PROBATION. GRDER SPECIAL CONDITIONS OF			
PROBATION. GRDER SPECIAL CONDITIONS OF			7
PROBATION ORDER SPECIAL COMUNITIONS OF PROBATION			A STATE OF THE STA
PROBATION ORDER SPECIAL CONDITIONS OF PROBATIONS OF	In addition to the special conditions of probation imposed aborevers side of this judgment be imposed. The Court may chang my time during the probation error or within a maximum or	pe the conditions of probation, reduce	ral conditions of probastion
PROBATION- GROER SPECIAL CONDITIONS OF PROBATION ABBITTOMAL CONDITIONS	In addition to the special conditions of probation imposed abservers side of this judgment be imposed. The Court may chang any time during the probation period or within a maximum or probation for a violation occurring during the probation period.	to the conditions of probation, reduce robation period of five years permitte	ral conditions of probastion
PROBATION- GROER SPECIAL COMDITIONS OF PROBATIONS OF	In addition to the special conditions of probation imposed aborevers side of this judgment be imposed. The Court may chang my time during the probation error or within a maximum or	to the conditions of probation, reduce robation period of five years permitte	ral conditions of probation or extend the period of pre by (aw, may issue a wern
PROBATION- GROER SPECIAL COMDITIONS OF PROBATIONS OF	In addition to the special conditions of probation imposed abservers side of this judgment be imposed. The Court may chang any time during the probation period or within a maximum or probation for a violation occurring during the probation period.	to the conditions of probation, reduce robation period of five years permitte	ral conditions of probation or extend the period of pr day, may issue a wern it is order as the C a certified copy of the
PROBATION ORDER SPECIAL CONDITIONS OF PROBATION OF PROBATION OF PROBATION COMMITMENT	In addition to the special conditions of probation imposed abservers side of this judgment be imposed. The Court may chang any time during the probation period or within a maximum or probation for a violation occurring during the probation period.	to the conditions of probation, reduce robation period of five years permitte	it is certified copy of the and commitment to the
PROBATION ORDER SPECIAL CONDITIONS OF PROBATION OF PROBATION OF PROBATION COMMENTMENT RECOMMENTMENT RECOMMENTMENT ORDER	In addition to the special conditions of probation imposed abservers side of this judgment be imposed. The Court may chang any time during the probation period or within a maximum or probation for a violation occurring during the probation period.	to the conditions of probation, reduce robation period of five years permitte	ral conditions of profession
PROBATION ORDER SPECIAL CONDITIONS OF PROBATION OF PROBATION OF PROBATION COMMENTMENT RECOMMENTMENT RECOMMENTMENT ORDER	In addition to the special conditions of probation imposed abservers side of this judgment be imposed. The Court may chang any time during the probation period or within a maximum or probation for a violation occurring during the probation period.	to the conditions of probation, reduce robation period of five years permitte	it is contained to the Caracteristic commitment to the

.

1 UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK 4 UNITED STATES OF MAERICA, 5 Plaintiff 6 -against-Criminal No. 75-CR-83 JERRY WINSTON, BROOME COUNTY AVIATION, INC., COMMUTER AIRLINES, 8 INC., and THEODORE (TED) BELL, 9 Defendants 10 11 12 13 PROCEEDINGS in the above-entitled 14 matter came on before the United States District 15 Court, Northern District of New York, at Auburn. 16 New York, on Tuesday, June 1, 1976, at 10:00 a.m., 17 before the Honorable Lloyd F. MacMahon, United 18 States District Judge. 19 VOLUME 20 22 23 24

APPEARANCES:

The Honorable JAMES M. SULLIVAN, JR.,
United States Attorney, Northern District of New York,
Federal Building, Syracuse, New York, by ARTHUR A.
CHALENSKI, ESQ., Assistant United States Attorney,
Of Counsel.

- and -

BECKER, CARD, LEVY & RICHARDS, P.C.,
141 Wasnington Avenue, Endicott, New York 13760,
Attorneys for Defendants Jerry Winston, Broome
County Aviation, Inc., and Commuter Airlines, Inc.,
by RODNEY A. RICHARDS, ESQ., Of Counsel.

- and -

PAUL R. SHANAHAN, ESQ., Syracuse, New York, Attorney for Defendant Theodore (Ted) Bell.

(The following proceedings took place in Chambers, all three attorneys being present.)

THE COURT: We will hear this motion to quash the subpoena here, because we have a jury sitting out in the courtroom.

MR. CHALENSKI: It is a short motion.

I have been served the served, a second time I have been served with a subpoena in this case, and the first one was during March of 1976.

The subpoena calls for me to appear and testify and to produce certain documents, and these are those reports that the F.B.I. related to the damaged aircraft owned by the defendant. Those particular documents were requested as part of the discovery in this case and refused by Judge Port.

The other portions of the subpoena call for me to produce documents of the Federal Aviation

Administration, and Mr. Richards, in a telephone conversation said he only asked for copies of those documents that I had in my possession.

I am not the custodian of the original document, and I do refuse production. It is not involved in this case.

THE COURT: Going to the F.B.I. reports:

1	would they be the 3500 material?
2	MR. CHALENSKI: They would not, Your
3	Honor. I will produce those for an in camera inspection.
4	THE COURT: Why do you say you are
5	entitled to those?
6	MR. RICHARDS: It is our position, Your
7	Honor, that the Government case is premised upon dis-
8	charge of certain employees, which is a violation of the
9	statute in question.
10	We contend that that report and investi-
11	gation by the F.B.I. would indicate that one or more of
12	these employees that were discharged were involved in
13	a sabotage of some type of intentional damage of the
14	aircraft.
15	THE COURT: It may go to the motive of
16	the employer in discharging that employee?
17	MR. RICHARDS: Yes, sir.
18	THE COURT: I think that you should pro-
19	duce them for an in camera inspection.
20	MR. CHALENSKI: I understand that it
21	would be Brady material, and I can turn it over.
22	THE COURT: May I see it?
23	MR. CHALENSKI: Yes, this is the entire
24	F.B.I. report (offering).
25	THE COURT: We can do that right now.

1	MR. CHALENSKI: You have the F.B.I. report?
2	MR. RICHARDS: Yes.
3	MR. CHALENSKI: I sent you my entire
4	F.A.A. file, everything I had from the F.A.A., and the
5	Judge has the entire F.B.I. file.
6	(The file, produced by Mr. Chalenski,
.7	was inspected by the Court).
8	THE COURT: I think that this may have
9	a bearing on this, Mr. Chalenski. Therefore it should
10	be made available. It may bear on the motive for dis-
11	charge.
12	MR. CHALENSKI: It is our position that
13	nothing contained in that report is anything other than
14	the statement of the defendant, Winston, in this case.
15	THE COURT: It ins't clear to me that that
16	is it. If that is so, of course, it is not even boot
17	strapping, and that hit me, also, but in rechecking it,
18	it isn't clear. I think that the last two sentences
19	of the second paragraph do not make that clear.
20	I do not see anything else in it, and you
21	can turn it all over.
22	MR. CHALENSKI: All right.
23	THE COURT: Now, what about the other
24	thing? You have seen copies and didn't I hear a cross
05	

conversation?

MR. RICHARDS: To the best of my knowledge, Mr.Chalenski has turned over to me all copies of the F.A.A. reports, and they are bringing in their records at noon, and I will be able to go through those.

THE COURT: Anything else open on this subpoena, then?

MR. CHALENSKT: I don't believe so.

MR. RICHARDS: I have another problem.

I served the local representative of the Teamsters, and I tried to get service for a couple of months now from three marshalls. Finally, a civil process server was obtained and served it with a service fee on the fourteenth, and he was usually out of the building. The Teamsters have not appeared with the documents today, and they concern dates of meetings, and extent of union activity on the part of the employees, and literature and brochures that were passed out. Mr. Chalenski has advised me that the representative of the local called him regarding the production of these documents, and he was told to seek local counsel, or his own attorney. I have heard or seen nothing, and the position is that this document is rather critical because they pin-point dates of meetings and the extent of the activity of the employees.

I would ask the Court to grant a

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

23

1	continuance until we can have the Local come in on a
2	show cause as to why
3	THE COURT: (When did you subpoena these?)
4	MR. RICHARDS: My final subpoena date was
5.	May 14th, and I have the affidavit.
6	THE COURT: That is kind of late, isn't
7	1t?
8	MR. CHALENSKI: It may be premature, if
9	I might inject. I have subpoensed Mr. Calder to be
10	one of my witnesses and in touching with him, he said
11	that the files that he was interested in are in the
12	possession of another representative of the union, who
13	is coming up here to produce them.
14	So possibly this can wait until that
15	other union representative does appear.
16	THE COURT: I can't wait to mid-trial.
17	You know, there is something known as double jeopardy
18	and you can't start, and then decide that all of those
19	subpoenas should be honored.
20	These are not documents in the possession
21	of the Government?
22	MR. RICHARDS: No, sir.
23	THE COURT: I am here to endorse whatever
24	remedies that you have, if you make the appropriate
25	motion, and I don't hesitate to do it. But it seems

1	to me that to ask for a continuance here under these
2	circumstances, is not warranted. You have waited until
3	almost
4	MR. RICHARDS: (Interrupting) It is
5	returnable today, the document is.
6	THE COURT: All right. But you are a
7	little tardy in seeking them here. When was this case
8	added to the trial calendar?
9	MR. RICHARDS: I think it was received
10	the calendar, about the second week of May, or just
11	about the time that the subpoena was served, and that
12	was on June 1st that we would pick a jury.
13	MR. CHALENSKI: During April it was
14	ordered to the head of the trial calendar.
15	THE COURT: No, I deny continuance in
16	light of that. I am here to endorse whatever remedies
17	that you have, if you seek them. All right.
18	MR. CHALENSKI: Thank you.
19	Now, on the F.A.A. document, I don't
20	know if you have made a ruling on that?
21	THE COURT: I thought that you gave him
22	the F.A.A.?
23	MR. CHALENSKI: I gave him the copies
24	that I obtained from the F.A.A. files. I really I
25	suppose I have no objection if he would stipulate that

1	those copies which I produced were contained in the files
2	of the F.A.A. in Rochester, and
3	MR. RICHARDS: (Interrupting) I have
4	no objection to that.
5	THE COURT: Are you satisfied with the
6	compliance with your subpoena that you served?
7	MR. RICHARDS: Yes, as far as the F.A.A
8	and the F.B.I.
9	THE COURT: Anything else open?
10	MR. RICHARDS: No.
11	MR. SHANAHAN: The only other thing, in
12	view of the nature of this case, we would like to ask if
13	you would consider asking the jurors about union activity
14	and whether they are engaged in anything of that sort.
15	THE COURT: Sure.
16	MR. CHALENSKI: The witness exclusionary
17	rule will be in effect throughout this trial?
18	THE COURT: Sure. Anything else?
19	MR. SHANAHAN: No, Your Honor.
20	(Whereupon, the following took place in
21	the Courtroom before the Court and the panel of jurors.)
22	THE CLERK: United States of America,
23	Plaintiff, against Jerry Winston, Broome County Aviation,
24	Inc., Commuter Airlines, Inc., and Theodore (Ted) Bell,
25	Defendants, 75 - CR - 83.

1	MR. CHALENSKI: Ready for the
	Government, Your Honor.
2	MR. RICHARDS: Ready for the Defendant,
3	
1	Jerry Winston and Broome County Aviation, Inc. and
5	Commuter Airlines, Your Honor.
6	MR. SHANAHAN: I represent Mr. Bell, and
7	we are ready.
8	THE COURT: All right, proceed.
9	THE CLERK: As your names are called,
10	please take a seat in the jury box.
11	Number one, William R. Calkins.
12	Number two, Florence Young.
13	Number three, Frances C. Price.
14	Number four, Loretta Powers.
15	Number five, Beverly M. Brooker.
16	Number six, Edward S. Shaft.
17	Number seven, Colomba Aramini.
13	Number eight, Anna M. Wood.
19	Number nine, Patricia Gulini.
20	Number ten, Robert P. Ryan.
21	Number eleven, Elizabeth Burchard.
22	Number twelve, Kathleen J. Ryan.
23	THE COURT: I would like all of you in
24	the back of the room to listen carefully to what I say,
25	and to the questions that I ask, so that in the event

that one of those now in the jury box is excused for one reason or another, and you are called upon to replace him, it won't be necessary for me to repeat the questions. I will simply ask if you have anything to say in answer to the questions that I have asked the others.

So make a mental note of what your answer would be, and in the event that I have to ask you if you have anything to say, then you can reveal that mental note.

This is a criminal case in which the Defendants are charged with, and I will state it very broadly, with interfering with employees' rights to choose a collective bargaining representative without interference or coertion on the part of the Defendants.

Also, with using interference and coertion to prevent the employees joining, or remaining members of a union.

Now, at the appropriate time, I will state those charges more specifically and more accurately. At this point, I simply want to give you a general idea of what the case is about, and make sure that we get a jury that can decide this case fairly and impartially.

I would add that the Defendants are also

2.2

charged with a conspiracy, that is a combination or an agreement among themselves to do what they are charged with doing, specifically to interfer with the employees free choice of a collective bargaining representative, and with his free choice of joining or remaining in a union.

Now, do any of you know any of the people that I will now introduce or name: Jerry Winston; Broome County Aviation; Commuter Airlines, Inc.; and Theodore 'Ted' Bell. Do you know any of those persons or companies?

Do any of you know the names, Jim Sullivan, the United States Attorney for this district? Mr.

Sullivan will be represented here by Assistant United

States Attorney Mr. Arthur Chalenski, and do any of you know Mr. Chalenski?

Do any of you know or have any friends or close relatives who work in the United States
Attorney's Office in this district?

Do any of you know Mr. Paul Shanahan, who appears here for the Defendant, Bell?

JUROR NO. 3 (PRICE): I know Mr. Shanahan.

THE COURT: In a personal way?

JUROR NO. 3: I do business with him.

THE COURT: What kind of business?

1	What is your business?
2	JUROR NO. 3: It was in regard to my son.
3	THE COURT: He represented your son?
4	JUROR NO. 3: At one time.
5	THE COURT: Do you feel that that would
6	influence you here in any way?
7	JUROR NO. 3: No.
8	THE COURT: Is that relationship still
9	continuing?
10	JUROR NO. 3: No.
11	THE COURT: How long ago was it?
12	JUROR NO. 3 It was a year ago March.
13	THE COURT: You are sure that that would
14	not influence you in any way?
15	JUROR NO. 3: No.
16	THE COURT: All right. Do any of you
17	know Mr. Rodney A. Richards, who appears here for the
18	Defendant Winston, Broome County Aviation, and Commuter
19	Airlines?
20	Have any of you ever worked for any law
21	enforcement agency?
22	JUROR NO. 6 (SHAFT): Yes, sir.
23	THE COURT: Which one?
21	JUROR NO. 6: I am a retired New York
25	State Trooper.

1	THE COURT: Anything in that fact that
2	would influence you in any way in this case?
3	JUROR NO. 6: I don't believe so.
4	THE COURT: Any reservations about it at
5	all?
6	JUROR NO. 6: No.
7	THE COURT: any of you have any close
8	relatives who work for any law enforcement agencies?
9	JUROR NO. 8 (WOOD): I have a nephew who
10	is a State Trooper.
11	THE COURT: Abything in that fact that
12	would influence you?
13	JUROR NO. 8: No, sir.
14	JUROR NO. 2 (YOUNG): My brother is a
15	policeman in Connecticut.
16	THE COURT: Anything that would influence
17	you here?
18	JUROR NO. 2: No.
19	THE COURT: Have any of you ever served
20	on Grand Jury?
21	JUROR NO. 4 (POWERS): Yes, I have.
22	THE COURT: where and when?
23	JUROR NO. 4: Across the state, about
24	seven years ago.
25	THE COURT: Anything in that fact that

would influence you here?

JUROR NO. 4: No, sir.

THE COURT: And you would not approach this case, I am sure, with any notion, simply because a Grand Jury had indicted these defendants and think that they are presumed to be guilty?

JUROR NO. 4: No.

THE COURT: I am sure that you all understand that under our system of law, the mere fact that persons or companies have been indicted means nothing beyond the fact that they have been accused of a crime. It is not proof, whatever, of their guilt. On the contrary, they are presumed to be innocent, and that presumption remains with them until the Government proves to the satisfaction of the jury that they are guilty beyond a reasonable doubt.

Is there anyone who would be unwilling to accept and apply those principles of law where he or she would sit on this jury?

In view of the fact or the particular nature of these charges, are any of you officers or representatives of any Union?

Are any of you officers or owners or employers with a business which has collective bargaining agreements with unions, or in which there has been

1	attempts to organize the business?
2	Do you any of you have any close relative
3	or people who are engaged in union activity, or on the
4	other side of the coin, people who own a business, and
5	have to deal with unions?
6	JUROR NO. 3 (PRICE): I have a brother
7	in Syracuse that is a union representative.
8	THE COURT: Is there anything in that
9	fact that would influence you in this case?
10	JUROR NO. 3: No, sir.
11	THE COURT: Have any of you ever partici-
12	pated in a strike?
13	JUROR NO. 1 (CALKINS): You mean a union
14	strike?
15	THE COURT: Yes.
16	JUROR NO. 1: We had a strike back in
17	the 60's at Seal-rite.
:3	THE COURT: Anything in that fact that
19	would influence you in this case?
20	JUROR NO. 1: No, sir.
21	JUROR NO. 8 (WOOD): A couple of years
22	ago with the General Electric here in Auburn.
23	THE COURT: Anything in that fact that
24	would influence you here?
25	JUROR NO. 8: No.

1	THE COURT: Are there other people on the
2	panel that belong to unions?
3	JUROR NO. 9 (GULINI): Yes.
4	THE COURT: Is there anything in that
5	fact that any of you belong to a labor union which would
6	influence you in this case which generally speaking
7	deals with an alleged charge of interference with
8	employee right to work, and joining a union?
9	Mr. Calkins, can you tell me what you do?
10	JUROR NO. 1 (CALKINS): I work at Seal-
11	rite.
12	THE COURT: And what do you do there?
13	JUROR NO. 1: I work as a laborer.
14	THE COURT: And are you married?
15	JUROR NO. 1: Divorced.
16	THE COURT: And what was your wife's
17	employment?
18	JUROR NO. 1: Housewife.
19	THE COURT: Ms. Young, what do you do?
20	JUROR NO. 2 (YOUNG): I work two hours
21	a day as a cashier in a store.
22	THE COURT: And what does your husband
23	do?
24	JUROR NO. 2: He is a theory specialist
25	at Beacon Mills.

1	THE COURT: And Ms. Price, what do you do?
2	JUROR NO. 3 (PRICE): In Singer Climate
3	Control.
4	THE COURT: And are you married?
5	JUROR NO. 3: Separated.
6	THE COURT: And what is your husband's
7	occupation?
8	JUROR NO. 3: I don't know, and I don't
9	know where he is.
10	THE COURT: What did he do when you did
11	know?
12	JUROR NO. 3: He worked at Singer also.
13	THE COURT: Mrs. Powers, what do you do?
14	JUROR NO. 4 (POWERS): I am a mother and
15	a housewife.
16	THE COURT: And what does your husband
17	do?
18	JUROR NO. 4: He is a plumber's helper
19	in Auburn.
20	THE COURT: And Mrs. Brooker, what do
21	you do?
22	JUROR NO. 5 (BROOKER): I am an accountant
23	at Cresent Corset Factory in Cortland.
24	THE COURT: Are you married?
25	JUROR NO. 5: Yes.

1	THE COURT: And what does your husband do?
2	JUROR NO. 5: He is in the Maintenance
3	Department of Smith-Corona in Cortland.
4	THE COURT: And Mr. Shaft, you are a
5	retired State policeman?
6	JUROR NO. 6 (SHAFT): Yes, sir.
7	THE COURT: And do you have any occupation?
8	JUROR NO. 6: No, not now.
9	THE COURT: And are you married?
10	JUROR NO. 6: Yes, sir.
11	THE COURT: And does your wife work
12	outside of the home?
13	JUROR NO. 6: Yes.
14	THE COURT: And what does she do?
15	JUROR NO. 6: She is a beautician.
16	THE COURT: And Mrs. Aramini, what io
17	you do?
18	JUROR NO. 7 (ARAMINI): I am a housewife
19	and my husband is retired.
20	THE COURT: And what was his work?
21	JUROR NO. 7: At the Char Company here.
22	THE COURT: And Ms. Wood, what do you
23	do?
24	JUROR NO. 8 (WOOD): I work at General
25	Electric.

1	THE COURT: And your husband?
2	JUROR NO. 8: He is on disability, and
3	he is disabled and retired.
4	THE COURT: From what?
5	JUROR NO. 8: Working at Alco.
6	THE COURT: And Mrs. Gulini, what do you
7	do?
8	JUROR NO.9 (GULINI): I am a Steno at
9	the State University College at Cortland.
10	THE COURT: And are you married?
11	JUROR NO. 9: Yes.
12	THE COURT: And your husband?
13	JUROR NO. 9: He works in the Maintenance
14	at the Warren Tichner Corporation.
15	THE COURT: And Mr. Ryan, what do you do?
16	JUROR NO. 10 (RYAN): In the Mortgage
17	Department of the Cortland Savings Bank.
18	THE COURT: And are you married?
19	JUROR NO. 10: Yes, sir.
20	THE COURT: And what does your wife do?
21	Does she work outside of the home?
22	JUROR NO. 10: At the Faculty-Student
23	Association at Cortland College.
24	THE COURT: Mrs. Burchard, what do you do
25	JUROR NO. 11 (BURCHARD): I am retired

1	from the Morse Chain.
2	THE COURT: And what does your husband
3	do?
4	JUROR NO. 11: He is deceased.
5	THE COURT: And what was his work?
6	JUROR NO. 11: A bartender.
7	THE COURT: And Ms. Ryan, what do you do?
8	JUROR NO. 12 (RYAN): I am unemployed.
9	AE COURT: And were you formerly em-
10	ployed?
11	JUROR NO. 12: Yes, a dental technician.
12	THE COURT: Are you single?
13	JUROR NO. 12: Yes.
14	THE COURT: Do any of you know of any
15	reasons why you could not sit on this jury and be fair
16	and impartial, and base your verdict, on the evidence,
17	and the evidence that you hear in this courtroom, and
18	on the law as the Court instruct you?
19	THE CLERK: Challenges for cause; the
20	Government?
21	MR. CHALENSKI: None.
22	THE CLERK: For the Defendant?
23	MR. RICHARDS: No.
24	MR. SHANAHAN: No.
25	THE CLERK: Any pre-emptaries?

1	The Government waives it's first challenge?
2	MR. CHALENSKI: The Government does,
3	Your Honor.
4	THE CLERK: Edward Shaft and Florence
5	Young, please step down.
6	(Whereupon, Juror No. 2 and Juror No. 6
7	were excused).
8	THE CLERK: Martin J. Rozwood, please
9	take Juror's seat number two.
10	Caroll A. Gzolowski, please take Juror's
11	seat number six.
12	THE COURT: Mrs. Gzolowski, what do you
13	do?
14	JUROR NO. 6 (GZOLOWSKI): I take care
15	of two little children.
16	THE COURT: That is a good occupation.
17	And what does your husband do?
18	JUROR NO. 6: He works for the New York
19	Telephone Company.
20	THE COURT: And do you have anything to
21	say in answer to any of the questions that I asked of
22	the others?
23	JUROR NO.6: No. They do have a union
24	at the phone company, but my husband doesn't belong to
25	it. I don't know if that is important. He pays his

1	dues, but he doesn't belong.
2	THE COURT: He doesn't belong to the
3	union.
4	Mr. Rozwood, what do you do?
5	JUROR NO. 2 (ROZWOOD): I am employed
6	by Clark Automotive.
- 7	THE COURT: And what do you do there?
8	JUROR NO. 2: I drive a van, a delivery
9	van.
10	THE COURT: I notice on the card your
11	occupation is listed as a student, do you also go to
12	school or have you finished school?
13	JUROR NO. 2: When I filled that paper
14	out for jury duty, I was unemployed, and I had just
15	gotten out of college, and I was hoping to get back in.
16	THE COURT: Are you married?
17	JUROR NO. 2: I am single.
18	THE COURT: And do you have anything to
19	say in answer to the questions that I put to the others?
20	JUROR NO. 2: No, sir.
21	THE COURT: Do either of you know of
2:2	any reason why you could not sit on this jury and be
23	fair and impartial and base your verdict on the law
21	and on the evidence?

THE CLERK: Challenges for cause;

1	Government?
2	MR. CHALENSKI: None, for cause.
3	MR. RICHARDS: None.
4	MR. SHANAHAN: None.
5	THE CLERK: Any pre-emptaries?
6	Martin Rozwood and Caroll Gzolowski and
7	Elizabeth Burchard, please step down.
8	(Whereupon, Jurors number two, number six
9	and number eleven were excused.)
10	THE CLERK: Kate Kramer, please take
11	Juror's seat number two.
12	Mary J. Brown, please take Juror's seat
13	number six.
14	Richard L. Plante, please take Juror's
15	seat number cleven.
16	THE COURT: Ms. Kramer, have you heard
17	what I had to say so far?
18	JUROR NO. 2 (KRAMER): Yes.
19	THE COURT: And do you have anything to
20	say in answer to any of the questions that I asked the
21	others?
22	JUROR NO. 2: No.
23	THE COURT: What do you do?
1	JUROR NO. 2: A secretary at the Uni-
5	versity.

2 h

- 1	
1	THE COURT: Married?
2	JUROR NO. 2: I am separated.
3	THE COURT: And what is your former
4	husband's work?
5	JUROR NO. 2: A postal clerk.
6	THE COURT: And Mrs. Brown, do you have
7	anything to say in answer to any of the questions that
8	I asked the others?
9	JUROR NO. 6 (BROWN): No.
10	THE COURT: What do you do?
11	JUROR NO. 6: I am a housewife.
12	THE COURT: And what does your husband
13	do?
14	JUROR NO. 6: Retired.
15	THE COURT: And what did he do or where
16	did he work?
17	JUROR No. 6: Columbian Rope.
18	THE COURT: And Mr. Plante, do you have
19	anything to say in answer to any of the questions?
20	JUROR NO. 11 (PLANTE): When you asked
21	if any of the others dealt with unions, I do. It's
22	part of my job as supervisor of safety and security
23	of Brockway Motor Trucks, I am involved also with labor
21	relations.
25	THE COURT: I see. Is there anything

1 in that fact that would influence you in this case? JUROR NO. 11: Not that I am aware of, 2 until I hear the presentation. 3 THE COURT: Bearing in mind that you do 4 have something to do with collective bargaining for 5 Brockway: 6 JUROR NO. 11: Yes. 8 THE COURT: And you represent the company in collective bargaining? 9 JUROR NO. 11: Yes, sir. 10 THE COURT: And have you ever had any 11 unfair labor charges made while you were there? 12 JUROR NO. 11: No. 13 THE COURT: And were you ever involved, 14 before you came there, in any labor disputes that 15 involved charges of unfair labor practices? 16 JUROR NO. 11: No, sir. 17 THE COURT: And are you married? 18 JUROR NO. 11: Yes, sir. 19 THE COURT: And what does your wife do? 20 JUROR NO. 11: She is a clerk-typist 21 at the State University College at Cortland. THE COURT: Do you know of any reason 23 why you could not sit on this jury and be fair and 24 impartial, and base your verdict on the law and on the 25

1	evi dence in this case?
2	JUROR NO. 11: No, sir.
3	THE CLERK: Challenges for cause:
4	Government?
5	MR. CHALENSKI: None for cause.
6	THE CLERK: Any for the Defendant?
7	MR. RICHARDS: No.
8	THE CLERK: Pre-emptaries?
9	The Government waives its third challenge
10	MR. CHALENSKI: The Government waives
11	its third challenge.
12	THE CLERK: Loretta Powers, and Richard
13	L. Plante, please step down.
14	(Whereupon, Jurors number four and eleven
15	were excused.)
16	THE CLERK: Joyce E. Gustafson and
17	Thomas M. Shea, please take Juror's seats number four
15	and number eleven.
19	THE COURT: Do either of you have anything
20	to say in answer to questions that I have put to the
21	others?
22	JUROR NO. 4 (GUSTAFSON): I do. I
23	represent a union within the Ithaca School Association
24	in Ithaca.
25	THE COURT: For how long?

1	JUROR NO. 4: About four years.
2	THE COURT: And have you ever been
3	involved in any charges of unfair labor practices on
4	either side?
5	JUROR NO. 4: No.
6	THE COURT: And is there anything in the
7	fact that you represent a union that would influence
8	you here in any way?
9	JUROR NO. 4: Not that I know of.
10	THE COURT: And you feel that you could
11	be fair and impartial in this case?
12	JUROR NO. 4: Yes.
13	THE COURT: And not bring any precon-
14	cieved notions?
15 .	JUROR NO. 4: No.
16	THE COURT: Mr. Shea, what do you do?
17	JUROR NO. 11 (SHEA): I am a Research
.18	Technician at Cornell.
19	THE COURT: And are you married?
20	JUROR NO. 11: Yes, my wife is a Research
21	Technician at Cornell.
22	THE COURT: Do you know of any reason
23	why you could not serve and be fair and impartial and
24	base your verdict on the law and the evidence?
25	JUROR NO. 11: No.

1	THE COURT: Mrs. Gustafson, do you know
2	of any reason why you could not sit here and be fair
3	and impartial and base your verdict on the law?
	JUROR NO. 4 (GUSTAFSON): No.
4	
5	THE COURT: Are you married?
6	JUROR NO. 4: Yes.
.7	THE COURT: What does your husband do?
8	JUROR NO. 4: ITHACA COLLEGE IN THE
9	Maintenance Department.
10	THE CLERK: Challenges for cause:
11	Government?
12	MR. CHALENSKI: No challenges for cause.
13	THE CLERK: For the Defendant?
14	MR. RICHARDS: None.
15	THE CLERK: Any pre-emptaries? The
16	Government waives its fourth challenge?
. 17	MR. CHALENSKI: The Government so waives.
18	THE CLERK: Joyce E. Gustafson, and
19	Anna Wood, please step down.
20	(Whereupon, Juror No. 4 and Juror No. 8
21	were excused.)
22	THE CLERK: Joseph T. Shaw, please
23	take Juror's seat number four.
24	Max T. Wiant, please take Juror's seat
25	number eight.

1	THE COURT: Do either of you gentlemen
2	have anything to say in answer to the questions that I
3	have asked the others?
4	JUROR NO. 4 (SHAW): No, sir.
5	JUROR NO. 8 (WIANT): No, sir.
6	THE COURT: What do you do, Mr. Shaw?
7	JUROR NO. 4: I am retired.
8	THE COURT: And where did you work?
9	JUROR NO. 4: Sunshine Biscuit, a sales
10	representative.
11	THE COURT: And are you married, sir?
12	JUROR NO. 4: Yes, sir.
13	THE COURT: And does your wife work or
14	has she ever worked outside of the home?
15	JUROR NO. 4: She has in the past, but
16	she doesn't work now.
17	THE COURT: Where did she work?
18	JUROR NO. 4: - She worked at Cayuga County
19	Savings Bank, and Columbian Rope.
20	THE COURT: Mr. Wiant, what do you do?
21	JUROR NO. 8 (WIANT): I am a minister.
22	THE COURT: And are you married?
23	JUROR NO. 8: Yes, sir.
24	THE COURT: And does your wife work out-
25	side of the home?

1		JUROR NO. 8: She words at BOCES.
2		THE COURT: Do either of you know of
3		any reason why you could not serve here and be fair
4		and impartial, and base your verdict on the law, and
5		on the evidence?
6		JUROR NO. 4 (SHAW): No, sir.
7		JUROR NO. 8 (WIANT): No, sir.
8		THE CLERK: Challenges for cause:
9		Government?
10		MR. CHALENSKI: No challenges for cause.
11		THE CLERK: Defendant?
12		MR. RICHARDS: None.
13		THE CLERK: Any pre-emptaries? The
- 14		Government waives its fifth challenge?
. 14		
. 15		MR. CHALENSKI: The Government waives
16		its fifth challenge.
17 -		THE CLERK: Thomas Shea, please step
18	-	down.
.19		(Whereupon, Juror Number eleven was excused.)
20		THE CLERK: Emily Young, please take
21		Juror's seat number eleven.
22	##	THE COURT: Miss Young, do you have any-
23		thing to say in answer to any of the questions?
		JUROR NO. 11 (YOUNG): No.
24		
25		THE COURT: What is your work?

1	JUROR NO. 11: I am a housewife.
2	THE COURT: And have you ever worked out-
3	side of the home?
4	JUROR NO. 11: Twenty years I was a
5	school teacher,
6	THE COURT: And what does your husband do?
7	JUROR NO. 11: He is a professor at
8	Cornell University.
9	THE COURT: And what field?
10	JUROR NO. 11: Entomology.
11	THE COURT: Do you know of any reason why
12	you could not sit here and be fair and impartial and
13	base your verdict on the law and on the evidence?
14	JUROR NO. 11: No, I don't.
15	THE CLERK: Challenges for cause:
16	Government?
17	MR. CHALENSKI: None.
18	THE CLERK: Defendant?
19	MR. RICHARDS: None.
20	THE CLERK: Pre-emptaries?
21	The Government waives its sixth challenge?
22	MR. CHALENSKI: The Government waives
23	its sixth enallenge.
24	THE CLERK: And the Defendant waives
25	its tenth challenge?

1	MR.RICHARDS: Yes, we do.
2	THE COURT: The jury is satisfactory to
3	both sides?
4	MR. CHALENSKI: Satisfactory, Your Honor.
5	MR. RICHARDS: Yes, it is, Your Honor.
6	THE COURT: Choose two alterntes.
7	THE CLERK: Lester W. Day, please take
8	alternate Juror's seat number one.
9	John W. Rosenthal, please take alternate
10	Juror's seat number two.
11	THE COURT: Do either of you gentlemen
12	have anything to say in answer to any of the questions?
13	ALTERNATE JUROR NO. 1 (DAY) Your Honor,
14	I work for the New York State Department of Cor oction
15	in the years 1969, 1970 and part of 1971.
16	THE COURT: I see. Is there anything in
17	that fact that would influence you in this priminal
18	case?
19	ALTERNATE JUROR NO. 1: Not that I know
20	of.
21	THE COURT: What did you do?
22	ALTERNATE JUROR NO. 1: A Prudential
23	Insurance Agent.
21	THE COURT: Are you married?
25	ALTERNATE JUROR NO. 1: Yes, sir.

1	THE COURT: And does your wife work out-
2	side of the home?
3	ALTERNATE JUROR NO. 1: No, she is a
4	housewife and mother.
5	THE COURT: I see.
6	Mr. Rosenthal, what do you have to say?
7	ALTERNATE JUROR NO. 2 (ROSENTHAL): My
8	father was the treasurer of a union for a substantial
9	period of time, until the union ceased to exist, several
10	years ago.
11	It was a small union, a musical union,
12	for a small period of time.
13	THE COURT: What did he do?
14	ALTERNATE JUROR NO. 2: He prepared copies
15	of music, to prepare it for print, by hand.
16	THE COURT: I see. Is there anything in
17	that fact that your father was a union treasurer that
:8	would influence you in this case?
19	ALTERNATE JUROR NO. 2: No, sir.
20	THE COURT: Was your father ever involved
21	insofar as you knew, in any charges of unfair labor
22	practices where he was the person bringing the charges
23	or anything of that nature?
24	ALTERNATE JUROR NO. 2: Not to my
25	knowledge, Your Honor.

1	THE COURT: Do you feel that you could
2	sit here and be fair and impartial?
3	ALTERNATE JUROR NO. 2: Yes, sir.
4	THE COURT: And base your verdict on the
5	law and on the evidence?
6	ALTERNATE JUROR NO. 2: Yes, sir.
7	ALTERNATE JUROR NO. 1 (DAY): I am a
8	member of a union, the Insurance Workers of America.
9	THE COURT: Anything in that fact that
10	would influence you here?
11	ALTERNATE SUROR NO. 1: No, not that I
12	know of.
13	THE CLERK: Challenges for cause:
14	Government?
15	MR. CHALENSKI: No challenges for cause.
16	THE CLERK: For the Defendant?
17	MR. RICHARDS: No.
18	THE CLERK: Now, any pre-emptaries?
19	The Government waives its alternate
20	challenge?
21	MR. CHALENSKI: The Government waives
22	its challenge.
23	THE CLERK: John W. Rosenthal, please
24	step down.
25	(Whereupon, Alternate Juror No. 2 was

1	excused.)
2	THE CLERK: Sally Jones, please take
3	Alternate Juror's seat number two.
4	THE COURT: Is it Miss or Mrs.?
5	ALTERNATE JUROR NO. 2 (JONES): Mrs.
6	THE COURT: Do you have anything to say
- 7	in answer to any of the questions that I have asked the
8	other?
9	ALTERNATE JUROR NO. 2: No.
10	THE COURT: What do you do?
11	ALTERNATE JUROR NO. 2: I do domestic work.
12	THE COURT: Domestic work. And what does
13	your husband do?
14	ALTERNATE JUROR NO. 2: We were separated
15	ten years.
16.	THE COURT: I beg your pardon?
17	ALTERNATE JUROR NO. 2: Separated for ten
18	gears.
19	THE COURT: And what was his work?
20	ALTERNATE JUROR NO. 2: Columbian Rope.
21	THE COURT: Columbian Rope?
22	ALTERNATUE JUROR NO. 2: Yes.
23	THE COURT: And do you know any reason why
24	you could not sit here and be fair and impartial, if
25	you were called upon to serve as a juror?

1	ALTERNATE JUROR NO. 2: No.
2	THE CLERK: Challenges for cause:
3	Government?
4	MR. CHALENSKI: No.
5	THE CLERK: For the Defendant?
6	MR. RICHARDS: No.
7	THE CLERK: Are the laternate jurors
8	satisfactory to both sides?
9	MR. CHALENSKI: Satisfactory to the
10	Government, Your Honor.
11	MR. RICHARDS: The alternate jurors
12	are satisfactory to the Defendant.
13	THE CLERK: Will the alternates and the
14	jurors please rise and raise your right hands.
15	(Whereupon, the jurors and alternate
16	jurors were sworn by the Clerk.)
17	Please be seated.
18	(After a short conference at the bench,
19	concerning the length of the trial, the balance of the
20	panel of jurces was excused by the Court.)
21	THE COURT: We will now take a short
22	recess.
23	(Whereupon, the jurors were excused.)
24	THE COURT: Court stands for a short
25	recess.

(After a short recess, the proceedings were resumed before the Court and the Jury.)

THE COURT: You may proceed, Mr. Chalenski?

MR. CHALENSKI: Good Morning, Ladies and Gentlemen: this case was initiated by an indictment in the Federal Grand Jury on July 2, 1975. The Defendants, and there are four of them, named in the indictment, two of them are corporations and wholly owned by one Defendant in this case, the Defendant Jerry Winston.

The Defendant Theodore 'Ted' Bell, is the Chief pilot of these two corporations and worked directly under these Defendants.

So that you have an idea, I will read the indictment and preface it by saying that it is a labor case. It arises under the Railway Labor Act, which is not the National Labor Relations Act. The Railway Act relates to railroads and by an amendment of Congress, to airline companies, also.

The Defendant is an airline company, and that is why it is covered by the Railway Labor Act.

Count one of the indictment is the conspiracy count.

The Grand Jury charges that at all times mentioned herein, the Defendant, Broome County Aviation Inc., was a corporation duly established under the laws

of the State of New York with its usual place of business at Binghamton, in the Northern District of New York, and was a common carrier by air engaged in interstate commerce within the meaning of Sections 152, 231, and 182 of Title 45 of the United State Code,

dant, Commuter Airlines, Inc., was a corporation duly established under the laws of the State of New York, with a usual place of business at Binghamton, in the Northern District of New York, and was a common carrier by air engaged in interstate commerce within the meaning of the statute referred to above, and at all times mentioned herein, the Defendant, Jerry Winston, was president of Broome County Aviation, Inc., and Co muter Airlines, Inc.

At all times mentioned herein, the Defendant, Theodore 'Ted' Bell, was Chief pilot of those same two corporations.

Beginning in August 1974, the exact dates of the Grand Jury, unknown, the pilots and co-pilots and employees of Broome County Aviation, Inc., and Commuter Airlines, Inc., attempted to organize and did organize and did attempt to bargain collectively to a representative of their own choosing.

paragraph 2.

'From on or about October 3rd, 1974,
and continuing through the date of filing of this indictment in this district, the Defendants, Jerry Winston,
Broome County Aviation, Inc., and Commercial Airlines,
Inc., and Theodore 'Ted' Bell, did unlawfully, willfully
and knowingly combine, conspire and agree among themselves and with each other, and with other persons
unknown, to commit the following offenses against the
United States:

'First, to interfer with, influence and coerce the employees of the Defendants, Brooms County Aviation, Commuter Airlines, Inc.', 'in the employees choise of a representative.'

'Second, to interfer with the organization of the employees of the Defendant Corporations and to influence and coerce said employees not to join or remain members of a labor organization, in violation of paragraph fourth of Title 45, United States Code, Section 152.

The means by which the Defendant company carried out this conspiracy included communicating threats of reprisal if their employees should organize; requesting their employees to deliver their National Mediation Board Ballots to the Defendant, and thereby vote against the organization; and firing and terminating

from emplyment several pilots and co-pilots.'

Then, under overt acts, these are things which the Grand Jury alleged the Defendant did in the course of the conspiracy.

First, on or about October 4, 1974, the four Defendants fired Ira Josephson, Robert Slough and Michael Bond, and that on or about Cotober 4, 1974, Jerry Winston, Broome County Aviation, Inc., and Commuter Airlines, Inc., called meeting of all pilots and co-pilots at which Jerry Winston made a statement against organizing, and Theodore 'Ted' Bell told the pilots and co-pilots that they would have tough check rides if they favored organization.

During or about November 6, 1974, the

Defendant, winston, and the two corporation Defendants

and the Defendant Bell met with pilots and co-pilots

individually and solicited their National Labor Relation

Board Ballots.

On or about December 9, 1974, Paul Sholl was fired by Jerry Winston and the two corporate defendants.

On or about December 13th, 1974, William Lamos was fired by Jerry Winston and the two corporate defendants.

On or about January 9th, 1975, Ronald

Williams was fired by Jerry Winston and the two corporate
Defendants.

On or about December 17th, 1,75, Dennis Larrimore was fired by the Defendant Winston and the two corporate Defendants.

On or about February 19th, 1975, James
Hummell was fired by the Defendant Winston, and the two
corporate Defendants.

On or about April 18, 1975, a floto was fired by Jerry Winston and the two corporate Defendants.

counts 229 of the indictment read identicially except for a different employee who is named as being interferred with, and a different date relative to each employee.

For each of these, the paragraph is that
the Grand Jury realleges and incorporates paragraphs
one through four of Count one, which I read to you and
further charges that on or about the dates herein
specified, in the Northern District of New York, the
Defendant Jerry Winston, Broome County Aviation, Inc.,
and Commuter Airlines, Inc., the Defendant Bell is not
named in any of these remaining counts, did knowingly
and willfully fail and refuse to comply with the terms
of paragraph third of Title 45 of the U.S. Code, Section
152, in that the Defendant did interfer with, influence,

- 15

...17

- 19

and coerce their employees in the their employees' choice of representatives by firing respectively each employee pilot and co-pilot hereinafter described.

There are eight pilots and co-pilots named and Ira Josephson is the first, and that was the October 3rd, 1974, and actually it is the pilots that I have previously mentioned in Count one, except for Michael Bond, and the same dates, also.

Counts ten and eleven have a similar prefatory paragraph.

The Grand Jury realleges and incorporates paragraphs one through four of Count one and further charges that on or about October 3rd, , in the Northern District of New York, the Lefendants Winston and Broome County and Commuter, knowingly and willfully failed and refused to comply with the terms of paragraph fourth of Title 45, United States Code, Section 152 in that said Defendant did interfer with the organization of their employees, and did influence and coerce their employees not to join a labor organization by firing the employees hereinafter named in Counts ten and eleven.

And the two pilots were Ira Josephson and Robert Slough.

Counts twelve through seventeen of the indictments also have a similar prefatory paragraph

one through four of Count one, further charges that on or about the dates hereinafter specified in Counts twelve through seventeen, in the Northern District of New York, the Defendants Winston, Broome County and Commuter did knowingly and willfully fail to refuse to comply with the terms of paragraph fourth of Title 45, United States Code, Section 152 in that said Defendants did interfere with the organization of their employees and did influence and coerce their employees not to remain memebers of a labor organization by firing the respective pilots or co-pilots hereinafter described.

The employees named are Sholl, Lamos, Williams, and Dennis Larimore, and Hummell, and Paul Floto, and the same dates which I mentioned previously in Count one are the acts that applied.

We expect to prove or to show in this trial that during the fall of 1974, the employees of the Defendants -- t was not a large organization and not like Allegany Airlines, or United -- but a small organization of 24 some odd employees who were working for organizational efforts.

They contacted several unions, and one union came down and spoke to them in Binghamton, New York, and a representative from the union by the name

of Alexander Calder spoke to them. This was the night of October 3 1974 2 Twelve hours later, three employees of 3 the Defendant were gone. Ira Josephson, Bob Slough, and 5 Mike Baan. After that took place, the employees submitted cards to the National Mediation Board, which 7 oversees the Railway Labor Act, authorizes cards requesting 8 the National Mediation Board to hold an election. 9 The election was scheduled and was ulti-10 mately held at the end of November of 1974. In the 11 interim, the Defendants, and we expect to prove this, 12 obtained the ballots from the employees and it was a mail 13 election that had been sent to them by the National 14 Mediation Board, and the obtaining of the ballots has a 15 significance of which the proof will explain to you. 16 They also made statements to the employees, 17 18 and called their pilots in for several meetings, and made statements concerning the union election, which also the 19 proof will show. 20 The ballots were opened on November 25, 21 1974, and shortly thereafter the union was certified. 22 It was the Aerospace Local out of New York City of the 23

FED AL BUILDING

Following the certification of the union,

Teamsters Union.

24

the Defendant Winston began to fire the employees named in the indictment. He also fired other employees.

:8

The proof will w that these were acted in organizing the union, an alltimately the effect of firing the employees was to erode the strength of the union and of the employee.

The Defendant Winston also challenged the results of that election with the National Mediation Board. All of this will be before you in the proof of the case. The Defendant Winston, as president of the airline, he did all of the acts charged in the indictment, and he was assisted by his Chief pilot, Theodore Bell. The two of them conspired to deprieve the employees of the rights that they were entitled to under the Railway labor Act. They fired them and did these other acts with the intent that the employees should be interfered with, influenced and coerced in their choice of representative and their right to join a labor organization, and their right to remain members of that labor organization.

The real issue in this case is going to be the intent of the Defendant that they did as these acts charged, for the purpose of interfering with and influencing and coercing the employees in their organizational rights, and after the proof is in, you will be

thoroughly convinced that the Defendant, Winston, had this intent. There is no question about it, and that the Defendant Bell assisted and conspired with him in doing these acts.

Thank you, Ladies and Gentlemen.

THE COURT: Mr. Richards.

MR. RICHARDS: May it please the Court, and good morning, Ladies and Gentlemen: as the Judge earlier had indicated to you, I represent Jermy Winston and the two corporate Defendants. Mr. Shanahan, sitting by my side, represents Mr. Theodore Bell, the Chief pilot for Commuter Airlines, Inc., and Broome County Aviation.

important for you to know, and the proof will show, that Broome County Aviation, Inc., and Commuter Airlines is not a very large operation. It will be demonstrated to you that when Mr. Winston came to our community, Broome County, back in 1964, to set up a small charter flight service, and thereafter, the organization or the corporations grew until finally he was able to go on a scheduling flight pattern to various cities such as Washington, New York City and other points of interest to the travelers in the area.

Now, this is a small corporation, and as

24

25

Mr. Chalenski pointed out in his opening statement, that everything is going to hinge around the intent of the Defendants. It is important to you, when you listen to the proof and as it will develop that indeed, as a small corporation there was a close exchange and relationship between employer and employee, and we believe that as you listen to the proof you will learn that: number one, the Defendants did not have that much knowledge regarding the union activity which was going on at that time; number two, whatever knowledge they had, they were not concerned with who was active in this; and number three, that they had really been concerned with making a successful business more successful. I believe that you will find following the proof that the so called discharges, the reprimands and the relationship between the Defendant and the employees were no different during that period of time mentioned by Mr. Chalenski, from Agusut of 1974 to July of 1975, than it had been in prior periods, and indeed, we will demonstrate to you, because apparently the Government feels that the discharges of these employees play some significant rola in the claims which they are charging here, that the operation of this company was indeed no different than it had been in prior years.

I think it is important, also, to keep

in mind, at the time that the evidence is introduced, that we are talking about airplanes. We are talking about, and the proof will demonstrate this, regulations by the FAA, and other federal agencies. Safety is the keyword, not only in this airline, an air taxi operator, but in all other airlines, as well. And as the evidence develops, you will find the requirement which has been rade by the corporation and what is required by these pilots, and I will believe that you will learn as to the standards of proficiency that must be maintained and the various check flights that have to be gone through.

I ask you now, I have no idea of the proof that the Government is going to submit, and at this juncture, I cannot respond to it, but I am only asking you as you review the proof to keep this situation in mind, and keep in mind that airline safety is primary, and we have governmental agencies continually checking the operation of that airline, and keep in mind the smallness of the operation, and the inter-relationship between the employer and the employee.

And, Ladies and Gentlemen, it would appear also from what Mr. Chalenski has said, that the Government challenges our own right to look into an election and, again, I would ask you to listen carefully

U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N. Y.

to the charge of the Court at the end of the trial as

to what our duties were in regard to that election.

I would ask that you review all of the testimony very carefully and keep in mind the size of the Defendants, and keep in mind the relationship and the requirements asked of them. Keep in mind, also, that the mere fact that an indictment has been read to you, that this is not evidence of either the guilt or innocence of these Defendants, and that this burden is now with the people when they present their case, and I am confident, Ladies and Gentlemen, after you have reviewed and heard all of the testimony, that in your own minds, you will be convinced of the innocence of these Defendants. Thank you.

THE COURT: Mr. Shanahan?

MR. SHANAHAN: If the Court please, and Ladies and Gentlemen: as has been stated to you, and I assume now that you understand it, I represent Theodore Bell, one of the two individuals named as Defendants in this indictment.

Now, Mr. Bell has held, over the period of time that we are concerned with, the position of Chief pilot for the corporate defendant. His work is Chief pilot, and he is a qualified pilot, and flies aircraft himself on a regular scheduled run, and in the

2

3

5

6

8

9

10

12

13

14

15

16

17

13

19

20

21

22

23

24

25

general course of the business of the corporate defendant.

But in addition to that, he has certain duties that have to do with the scheduling of air flights and the assignment of personnel to various flights so that he is in that fashion, allied with the management, so to speak, and you might take this term of Chief pilot to be somewhat similar to the title of manager with some other type of a company. There is no question, but when he has supervisory duties and obligations, and works directly under Mr. Winston, who is the chief stockholder or the sole stockholder perhaps of the corporations involved. Now, my client is charged simply in the conspiracy count of the indictment, and that is the first count that Mr. Chalenski read, and there are some sixteen additional counts where my client is not referred to or named as the Defendant. There is no contention on the part of the Goernment that he is involved with anything more than one count of the conspiracy.

Now, just let me my for you, because it is hard to tell from the manner in which we selected jurors in a case such as this, how many of you may or may not have had experiences as trial jurors in the trial of criminal cases in the past.

The Court will tell you, at a later time

in connection with the charge, that the indictment that

Mr. Chalenski read to you should not be considered by
you people as even the slightest evidence of guilt.

The fact that the Defendants here have been indicted
should likewise, not be considered by you as any evidence
of guilt. It is your obligation, on the other hand,
to assume and presume that the Defendants are innocent
of the charges contained in the indictment, and the
Government has the burden of establishing the guilt
of the Defendant to your satisfaction, beyond every
reasonable doubt.

So that at the close of the evidence here, it will be your obligation to receive all of the evidence of the case, and consider it, and if you have remaining in your mind, any reasonable doubt as to guilt it would be your duty and obligation, of course, to resolve that in favor of the Defendant, and render then the verdict of not guilty.

Then in this case, as in most criminal cases, at a much earlier time, these Defendants were arraigned by the indictment and that means that the indictment was presented in court, and read to them, and they were questioned to plead guilty or not guilty, and they have elected to plead not guilty, which constitutes legally a denial by them that they are guilty

of the charges contained in the indictment, and that creates then, the question of fact to be passed upon by a trial jury such as yourselves, under these rules of law that I have just mentioned.

Now, my client, as I say, entered a plea of not guilty as did the other Defendants in this case, and thereby denied his guilt of the charge; the conspiracy charge against him.

We reaffirm at this time that denial. He denies that he is guilty of conspiring to, in any manner violate the laws of the United States that are involved in this case.

Now, it is alleged in a general way, as you recall from what Mr. Chalenski read to you, that my client and Mr. Winston conspired to interfer with the rights of employees to organize, to join a labor union, or remain a member of a labor union.

Now, we deny that there was such a conspiracy. The only reference that I can find concerning my client in the indictment, other than the general charge is a statement that he, at some point or other, said that if these men joined the union that they would be subjected to tough check rides, and just so that you will have some notion as to what that is all about, just let me explain to you that under the

rules of the Federal Aviation Agency, it is necessary for pilots of airplanes, captains here, to take periodic proficiency tests, and those tests are administered under the Federal Aviation Agency auspices.

The purpose is to ascertain whether a person who is operating an aircraft carrying passengers or otherwise, is proficient to continue his work at that job. As Mr. Richards pointed out to you, the key word in of this, of course, is safety to passenger, aircraft and so on.

of these proficiency tests, or a check ride, I think that they called it, every six months to ascertain if their proficiency is up to par and if they should continue for the next six months, to continue with their work.

The co-pilots, who do not, themselves,

fly the planes, or at least are not in charge of the

flying of the planes, but who accompany pilots on these

various flights, they had to take such proficiency checks

and also under the auspices of the Federal Aviation

Agency, once a year, and the purpose of their tests

are exactly the same, of course, as the test of the pilots.

Now, Mr. Bell, as a pilot of many years' standing, had been designated as a person by the Federal

Aviation Agency who could administer these proficiency tests of pilots and co-pilots. As a matter of convenience, he did, over a period of time, administer tests of that sort to the employees of the Commuter Airlines in question here.

When he did that, he did that as a person designated by this federal agency to do it.

On the other hand, he did not administer all such tests. Scretimes, someone from the Federal Aviation Agency would come in from Rochester, or where they are located, and direct employees of the federal agency to administer tests of this sort.

Now, to the claim that Mr. Bell at any time told the pilots or co-pilots that they would be subject to tough check rides, we absolutely denied that any such thing ever occurred.

Now, it is difficult for us to say, at this polar, or to indicate to you precisely what our proof will be, because necessarily, we have to hear what the proof is that is offered in support of the Government's contention, and then we will come to some decision as to what proof we may wish to offer to counter that evidence, and until we hear it, it is difficult for us to relate precisely what it will be.

So we would ask you to keep your minds

open until you have heard all the evidence in the case. The Government proceeds first with their proof, and we are unable to offer any evidence until they have completed their proof, and then we have the opportunity to present such evidence for your consideration as we may, at that point, deem advisable to do.

So that in fairness, we ask you to keep your minds open until you have heard all of the evidence, because we are satisfied in our minds, that we will be justified, at the close of the case, in asking you people to render a verdict of not guilty as to all or the Defendants here.

Thank you very much.

MR. CHALENSKI: The Government calls for its first witness, Mr. John B. Willits.

1.1

1	JOHN B. WILLITS, having
2	been first duly sworn, was examined and testified
3	as follows:
4	DIRECT EXAMINATION
5	BY MR. CHALENSKI:
6	Q Please speak loud and clearly so that the last member
7	of jury can hear and understand you. Now please state
8	your name?
9	A John Willits.
10	Q And what is your occupation?
11	A I am a mediator with the National Mediation Board.
12	Q And how long have you been so employed?
13	A Since July, 1968.
14	Q And can you describe the duties of your position as
15	mediator for the National Mediation Board?
16	A Yes. I act as an agent for the Board in investigating
17	certain cases, and in mediation in other cases.
10	Q And what does the Board do?
19	A It administrates the Railway Labor Act, which pertains
20	to labor relations on the railroads and the airlines.
21	Q And what is involved in that administration?
22	A Well, really there are several functions, but the ones
23	that I am connected with have to do with representation
24	cases, which are elections for selection of a replacenta
25	tive for various employees on the railroads and airlines

The other is mediation between those parties, if there 1 are problems that cannot be resolved, and with direct 2 negotiations. 3 With reference to the representational disputes, can Q 4 you tell the jury what procedure is followed in repre-5 sentation disputes before the National Labor Relations 6 Board? 7 Yes. Individuals or organizations submit applications 8 to the Board together with authorizations which are 9 signatures of employees requesting that an election be 10 held to name the representative for their group, and the 11 Board then would investigate that, and check the signa-12 tures against those in the company files. If there were 13 certain conditions met, a minimum of 35 percent unrepre-14 sented, and 50 plus cases where they are represented. 15 the Board would hold an election, and certify the winner, 16 if there was one, or dismiss the case, if there wasn't. 17 Q Did any of these representational disputes involve the :8 Defendant, Broome County Aviction, Inc., and Commuter 19 Airlines, Inc.? 20 Yes, there was one in 1970, and one in 1974. 21 And were you a participant or were you a mediator in 22 that 1970 proceeding? 23 MR. RICHARDS: I am going to object to this 24

line of testimony on the grounds that the bill of

1	Particulars limited all of this from August of 1974 on.
2	MR. CHALENSKI: We are no challenging
3	any act of the Defendant at that time, but things do
4	date back, and he may have a particular knowledge of
5	this case.
6	THE COURT: May I see the Bill of
7	Particulars?
8	MR. CHALENSKI: Yes. (Offering).
9	THE COURT: Could you point out which
10	paragraph restricts it?
11	MR. RICHARDS: There is no reference
12	whatsoever to the 1970 election in the Bill of Particu-
13	lars.
14 -	THE COURT: Sustained, if that is so.
15	MR. CHALENSKI: May I approach the bench
16 .	on the exhibit?
17	THE CCURT: Show me where the Bill of
18	Particulars permits you to go into this? You restricted
19	the Government proof by a Bill of Particulars, and you
20	are stock with it.
21	MR. CHALENSKI: We are not charging any
22	acts in 1970. But we say that we have to prove that
23	the Defendant knew the provisions of the Railway Labor
24	Act, and in 1970, he was advised of those provisions.
25	MR. RICHARDS: I prefer not having

1 this argument in the presence of the jury. THE COURT: I do not see where it requires any bench conference. You may proceed to show the 3 Defendant's general knowledge of the existing require-5 ments, but for that purpose only. 6 BY MR. CHALENSKI: 7 You were involved as a mediator in that proceeding? 8 Yes, in 1970 and 1974. And have you brought records of the National Labor 10 Mediation Board concerning both the 1970 and the 1974 11 proceedings? 12 I have. 13 0 I am handing you Government's Exhibit number one for identification, and can you tell me or describe what 14 15 that document is? THE CLERK: Government's Exhibit number 16 17 one, marked for identification. (Document marked Government's Exhibit 18 19 number one, for identification.) THE COURT: Mr. Chalenski, I think that 20 21 maybe you better come up here and give me an offer of proof. (Whereupon, the following took place 23 24 at the side bar, out of the hearing of the jury.)

MR. CHALENSKI: My only offer is concerning

	- 11	
)	1	the 1970 election.
	2	THE COURT: What do you want to show?
	3	MR. CHALENSKI: That the 1970 election
	4	was held on these provisions of the Act.
	5	THE COURT: What is the difference?
	6	MR. CHALENSKI: The Government has taken
	7	a position that a specific intent is required in this
	8	case, and that he has knowledge.
what dis	9	THE COURT: I don't think that the Govern-
Ct charge?	10	ment is right. You will have to show us. He is pre-
50 14 14	11	swmed to know the law.
A	12	MR. CHALENSKI: There is no doubt about
9	13	it.
	14	THE COURT: He doesn't have to know that
	15	there is a specific law.
	16	MR. CHALENSKI: I do not intend to go into
	17	this any further than to show that this was known to
	18	the Defendant in 1970. It is just the paragraph right
	19	there (indicating).
	20	THE COURT: Have you seen this?
	21	MR. RICHARDS: No, sir.
	22	THE COURT: All right (offering to Mr.
	23	Richards).
)	24	MR. RICHARDS: We have no knowledge of
	25	any of this, if he is going to get into it, and whether

- 11	
1	or not it shows the intent of the Defendant I don't
2	see where it shows anything. I didn't realize that we
3	were going to open the door to the 1970 election.
4	THE COURT: Do you have any objection,
5	and if so, state your objection.
6	MR. SHANAHAN: Well, I would think, Your
7	Honor, that the prime objection on this would be that
8	it is outside of the scope of the indictment, and as
9	Your Honor states, I presume that everybody is supposed
10	to know what the law is. I think that I understood this
11	correctly and he is simply trying to bring home the
12	direct notice of the rules. I don't know whether that
13	is as far as he wants to go?
14	THE COURT: Do you think that that may
15	be prejudicial in opening another labor dispute?
16	MR. SHANAHAN: It shows an earlier con-
17	troversy on this same matter, and therefore it might be.
18	MR. CHALENSKI: I only want to introduce
19	them, and nothing further.
20	THE COURT: But you did not imply that.
21	I will sustain the objection. I don't
22	think that it is material.
23	(Whereupon, the following took place
24	before the Court and the jury.)
25	BY MR. CHALENSKI:

You acted as mediator during a re resentation dispute 1 Q concerning the Defendant in 1974, is that correct? 2 Right. A 3 And how did that dispute come to the attention of the Q 4 National Mediation Board? 5 The applicant union completed a form with certain required 6 A information and sent it to the Board. 7 I show you Government's Exhibit number three, and is 8 Q that the form to which you are referring (offering)? 9 Yes. 10 A And is that one of the documents which you have produced Q 11 today? 12 Yes. A 13 And are you a custodian of that document? Q 14 15 A Yes. And following the receipt of Government's Exhibit number 16 Q three, what did the Board do? 17 When the application was received, the Board forwarded 18 A a letter of inquiry to the carrier asking them about 19 the number of employees and the background information 20 needed for the investigation. 21 I show you Government's exhibit four, and is that the 22 Q letter to which you are referring (offering)? 23 24 Yes. A And I show you Government's exhibit number five, for 25 Q

1		identification, and can you to 1 the jury what that
2		letter represents?
3	A	This is the letter from the carrier, Broome County
4		Aviation, over Mr. Winston's signature, setting forth
5		the response to that information that the Board requested
6		regarding this case.
7	Q	And what happened following the receipt of that letter
8		from the employer?
9	A	The Board assigned me to go to Binghamton, New York,
10		and make the investigation, and compare the signatures
11		that had been submitted to us.
12	Q	And did the Board make any findings?
13	А	Yes, it was found that there was a sufficient number of
14		signatures to have an election.
15	Q	And I show you Government's exhibit number six for
16		identification, and can you tell the jury what that
17		represents (offering)?
13	А	Yes, this is a Western Union telegram to me, authorizing
19		an election to be held, by the Board.
20	Q	Can you tell the jury what type of election was to be
21		held in this case?
22	A	It was an all mail ballot election for the pilots.
23		THE COURT: For what purpose?
21		THE WITNESS: To decide if there would
25		be a representative for this group.

1 BY MR. CHALENSKI: And following the determination that an election should 2 Q be held, I hand you Government's exhibit number seven, 3 and can you tell the jury what that document represents 4 5 (Offering)? Yes, it is a letter from me to Mr. Winston stating that 6 7 the notice and rules of election and instructions for 8 voting by U.S. mail, and the sample ballot copies are enclosed, and asking him to post them on the bulletin 9 10 board. And I hand you Government's exhibit number eight for 11 Q identification, and can you tell the jury what that 12 13 represents (offering)? . This is the notice of election to be held. 14 15 Q And I hand you Government's exhibit number nine for identification, and can you tell the jury what that 16 17 document represents? This is the results of the election, which is standard. 18 A And were mail ballots sent, in this case? 19 Q Yes, they were. They were sent to all of those who 20 21 would be eligible to vote. 22 2 And who sent them out? 23 I did. I show you Government's exhibit number ten for 24 identification, and is that letter one of the documents 25

1		
1		which you brought with you today (offering)? .
2	A	Yes, this is a letter from Broome County Aviation,
3		over Mr. Winston's signature, also.
4	Q	And that was following the sending out of the ballots
5		by the National Mediation Board?
6	A	Yes.
7	Q	I show you Government's exhibit number eleven for
8		identification, and is that also one of the documents
9		that you brought with you (offering)?
10	A	Yes.
11	9	Now, following the sending out of the ballots to the
12		employees of the defendant, did anything unusual happen?
13	A	Yes, there was a request from the employees that they
14		be sent duplicate ballots.
15	Q	I show you Government's exhibit number eleven for
16		identification, which is packet of documents and can
17		you tell the jury what that represents?
18	A	These are requests from the individuals involved, for
19		duplicate ballots.
20	Q	Received by the National Mediation Board?
21	A	Yes.
22	Q	Did the employees or anybody state any reason why
23		the duplicate ballots were requested?
24		MR. RICHARDS: Objection.
25		THE COURT: Sustained.

1 BY MR . CHALENSKI:

In the event -- well, can you explain what the significance to an election is of a person turning his ballot over to somebody else?

MR. RICHARDS: Objection. This witness hasn't been qualified. He is interpreting the statute underwhich this defendant is indicted.

THE COURT: Your question isn't very clear. I don't know what you mean, and I will sustain the objection to the form of the question.

BY MR. CHALENSKI:

Are you aware of the effect on an employee's voting in an election if he turns his ballot over to somebody who does not vote the ballot?

MR. RICHARDS: I object to the form of the question.

THE COURT: Put it in a leading question, and I will know what you are shooting at. I have no idea. Put it in a leading question.

BY MR. CHALENSKI:

If an employee who received a ballot from the National Mediation Board turns that ballot over to a person who does not vote it, does that mean that that employee thereby has deemed to have cast a no-vote for the union subject of that election?

-	A	Yes.
2	વ	Did there come a time when the National Mediation Board
3		received ballots in this case?
4	А	Yes.
5	Q	And can you describe the physical means by which it was
6		received?
7		MR. SHANAHAN: What was received?
8		MR. CHALENSKI: The ballots.
.9		MR. SHANAHAN: By whom?
10		MR. CHALENSKI: By the National Mediation
11		Board.
12		THE WITNESS: These are returned to a
13		box in Washington, D.C. and at the day of the count,
14		they are picked up fromthe Post Office and taken to
15		our offices in Washington and counted. The process
16		being that the individual returns the ballot in a
17		certain envelope which has been given to them, which
18		they must sign, which is certain information which
19		advises us that they are eligible to vote, and that
20		is all checked before the ballot is opened and this
21		stub that has information is taken off and kept.
22	BY MR	. CHALENSKI:
23	Q	I show you Government's exhibit twelve for identification
24		and can you tell the jury what that packet is?
25	A	Yes, these are stubs with that information from those

dij.

1 return envelopes. And in this particular representational dispute dealing 2 with Broome County Aviation, and Commuter Airlines? 3 Yes. And these were torn off on or about November 25th, 1974? 5 Are these the stubs which the National Mediation Board 6 tore off the envelope in the representational dispute 7 here in question? 8 Yes. a And following the tearing off of those stubs, what then 10 happened? 11 The ballots were counted, and the result was that there 12 were 21 eligible, and there were 16 ballots cast for 13 the Teamster's union, and there was one blank ballot. 14 I now show you Government's thirteen for identification, 15 and can you tell the jury what that exhibit is? 16 Yes. These are those ballots from that election. 17 And what happened next Mr. Willits? 18 As a result of the election, the Board certified the 19 Teamster's union to be the representative of the pilots 20 of Broome County. 21 Did that happen on December 4, 1974? 22 Thereabouts. 23 And I show you Government's exhibit number fourteen for 24 identification, and can you tell the jury what that 25

- 1		
1		document represents?
2	A	This is the certification of the National Mediation
3		Board, certifying the Teamster's to be the representativ
4		for the pilots of Broome County.
5	Q	Subsequent to the election, did the defendant, by his
6		attorney, send letters to the National Mediation Board?
7	A	Sir?
8	Q	Subsequent to the election, did the defendant, by his
9		attorney, send letters to the National Mediation Board?
10	A	Yes, they did.
11	Q	And I hand you Government's exhibit number fifteen, and
12		sixteen, excuse me, fifteen, seventeen and eighteen
13		(offering), and ask you whether those are copies of
14		letters which the defendant's attorneys sent to the
15		National Mediation Board concerning this election?
16	A	Yes, these are the letters.
17	Q	Now, this one makes reference to an attached affidavit,
18		and I show you Government's sixteen for identification
19		(offering) and is that the affidavit attached to
20		Government's exhibit fifteen?
21	A	Yes, right.
22		MR. CHALENSKI: May I read from this
25		excuse me, at this time, the Government will strike
24		that.
25	BY MR	. CHALENSKI:

1 Mr. Willits, all of Government's exhibits numbers three Q through eighteen, which you have identified, and I 2 am speaking with reference to all of them; they are kept in the regular course of business by the National Mediation Board? 6 Yes, they are. 7 And are you custodian of those records? 8 I am. . MR. CHALENSKI: The Government offers 9 them into evidence at this time (offering to Counsel). 10 THE COURT: Has Counsel seen these 11 before? 12 MR. SHANAHAN: No, we have not. 13 THE COURT: We will take our luncheon 14 Counsel will need time to look at them. We 15 will reconvene at 2:15. 16 (Whereupon, the jury was excused.) 17 THE CLERK: Now, court stands in recess 18 until 2:15. 19 THE COURT: Don't talk about the case, 20 and don't let anybody talk about it with you, and have 21 a nice luncheon. -22 Counsel, will you remain for just a 23 24 moment. (Whereupon, the jurors all left the 25

1	courtrocm).
2	THE COURT: Mr. Chalenski, have you
3	served a copy of your request to charge on the defe se
. 4	counsel?
- 5	MR. CHALENSKI: I have.
6	MR. RICHARDS: I got it this morning.
7	THE COURT: Do you have any request to
8	charge?
9	MR. RICHARDS: I submitted one to the
10	court earlier, before the trial began.
11	THE COURT: I saw a brief, but no request
12	to charge. It is an excellent brief, and maybe the
13	other is there.
14	MR. RICHARDS: I apologize, Your Honor.
15	THE COURT: There are two memorandum of
16	law.
17	MR. RICHARDS: I apologize, and that is
18	a copy.
19	THE COURT: I only need one memorandum
20	of law.
- 21	Just taking a quick glance at these,
22	they are not of much help. I would like you to take
23	the Government format, and charge the elements of these
24	crimes. Take your instructions and weave them into
25	the format. Either you agree or disagree with what

the elements are. Once we get those, then we can get to the rest of it. I would appreciate your doing that tonight, if you can, so that we can get to work on them and these charges don't put themselves together.

MR. RICHARDS: I will try and combine this.

THE COURT: We are working in a totally unchartered field and, if possible, I would like to get agreement as to what the elements of these crimes are.

I notice from your brief, that you dwell far more intensively, and probably properly, on the element of knowledge and intent.

But perhaps we could work with the Government's format and maybe photostat it and just ink in what you think, and I can rule on them, and I think that the sooner I rule on them the better off all of us are going to be in charting the course of what is going to happen in this case, and what is material and what isn't.

MR. RICHARDS: We will work on them tonight and have them ready.

MR. CHALENSKI: One matter I should bring out now. I did serve a subpoena on the defendant, and Judge Port ruled in part on that subpoena a week ago

5.

yesterday. I called for the oduction of personnel records relating back to 1967. The defendant at that time opposed the subpoena on the specific grounds which he will probably want to state now.

over only in as far as they relate during the period August 1, 1974 to July 2 of 1975. However, in his opening statement, the defendant stated that they were going to show that the defendant treated their employees no different than in prior years, and I believe that as soon as he starts getting into that, Your Honor, I am entitled to see these documents related back to 1967, and I request that the court direct that that subpoend be enforced.

MR. RICHALDS: Your Honor, the argument that was posed to Judge Fort at the same time that this was made is that the Bill of Particulars and Indictment related to the period of time from August 1, 1974 to the time of the indictment in June 2, of 1975, and we felt under those circumstances we should not be required to produce any documentation, or personnel records of the employees who might have been with the company prior to that date. It is not the intention of my defendant to introduce proof of specific cases as merely policies of the company at the time that it was introduced.

THE COURT: You can't have it both ways. You have opened the door when you say that you haven't 2 treated them any differently than you ever did, and to open that opens up the whole prior relationship. MR. RICHARDS: Well, Your Honor, at the court's direction, we will not introduce any evi-6 dence as to previous relationship outside of that period 7 of time. 8 THE COURT: But you have also told the 9 jury that you treated them the same, here. I think that 10 that opens the door, as much as I hate to take a stand on 11 this thing, but lawyers insist on doing it. First, you 12 close the door, and then you open it. It reminds me of 13 a case a week ago in New York, where I very carefully 14 excised all prior narcotic transactions during the 15 Government proof and where the defendant Counsel immedi-16

1

3

5

17

18

19

20

21

22

23

24

25

I am afraid that you have to give him the documents concerning prior relationships.

ately opened up the whole field and before he was

through, he had 50 kilos in evidence.

MR. RICHARDS: Very good.

MR. CHALENSKI: Thank you.

THE CLERK: Court stands in recess until

(Whereupon, after the luncheon recess,

1	
1	the proceedings were resumed as follows before the
2	Court and the Jury).
3	THE COURT: Proceed.
4	MR. CHALENSKI: I previously inadvertently
5	identified two exhibits as number eleven and may I
6	reidentify them. One is number eleven-a, and that was
7	the letter which you previously identified from the
8	Board to the defendant Winston.
9	BY MR. CHALENSKI:
10	Q Now, is that correct?
11	A Yes, it is.
12	Q And Government's exhibit number eleven -b is the packet
13	of requests for additional ballots?
14	A Right.
15	MR. CHALENSKI: Thank you, Mr. Willits.
16	MR. SHANAHAN: May I see those now, and
17	see what you have done?
18	MR. CHALENSKI: Yes (offering).
19	MR. RICHARDS: May Counsel approach the
20	Bench?
21	THE COURT: Yes.
22	(Whereupon, the following took place at
23	the Bench, out of the hearing of the jury.)
24	MR. RICHARDS: Your Honor, exhibits
25	fifteen through eighteen, I would like to raise some

1 argument as being outside of the issues raised in the indictment, and that is after the representative had 2 been certified, and I take the position that it is un-3 related to this indictment. THE COURT: Overruled. 5 6 (Whereupon, the following proceedings took place before the Court and the Jury.) 7 THE COURT: That Bench conference was 8 necessary. You just say that you object and it is 9 immaterial. 10 MR. RICHRDS: Yes, Your Honor. 11 MR. CHALENSKI: Now, Your Honor, exhibits 12 number three through eighteen, and including eleven-a and 13 14 eleven-b are in evidence? THE COURT: Yes. 15 THE CLERK: Government's exhibits number 16 three through eighteen, including eleven-a and eleven-b, 17 18 received in evidence. (Government's exhibits numbers three 19 through eighteen, for identification, received in 20 21 evidence.) MR. CHALENSKI: May I have permission 22 to read from an exhibit? 23 THE COURT: Yes, go ahead. 24 MR. CHALENSKI: This is exhibit number 25

fifteen and it is a letter from the attorney representing the defendant, Broome County Aviation, Inc., to the National Mediation Board, and it is dated December 9th, 1974.

1

2

3

5

6

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

... The letter reads ' Gentlemen: Broome County Aviation, Inc., carrier in the above captioned proceeding, hereby files objections to the election held by the Board in which the mailed ballots were counted on Movember 25. The attached affidavit to Mr. Jerry Winston, the president of the carrier is the basis for the action The affidavit shows that Mr. Winston was given and secured both on the original ballot and the duplicate ballot, by the 21 employees who were determined by the Board to be eligible to vote in the election and in addition, the six eligible employees told that they mailed a no-ballot . From the seventeen ballots counted that were mailed to the Board in time for the vote count, it is apparent that there were serious irregularities in the election and in order to preserve the integrity of the Board's election processes, it required that the election be set aside or at the very least that an investigation be undertaken by the Board.'

Now, a letter dated December 27th, 1974, Government's exhibit eighteen from the same attorney to the National Mediation Board, and the executive

Secretary, Mr. Roland K. Quinn, and the letter states:
Thank you for your letter of December 23rd. Eroome
County Aviation, Inc., has proof that the following
individuals who were eligible to vote did not vote on
the original or duplicate ballot.

I won't go over any more of this just

now.

BY MR. CHALENSKI:

Now, Mr. Willits, did the National Mediation Board do anything following the receipt of those letters,

Government's exhibit numbers fifteen, seventeen and eighteen?

- Yes, the Board directed me to go to Binghamton and contact some of the pilots involved and discuss the matters with them at which time I got a signed statement from them saying that they have participated in the election.
- I hand you Government's exhibit number nineteen for identification, and can you tell the jury what that exhibit is?
- 21 A This is the signed statement which I witnessed of one of the pilots stating that he had cast a ballot.
 - Q What pilot is that?
- 24 A That is Paul Floto.
 - Q And I hand you Government's exhibit number twenty for

1		identification, and can you tell the jury what that
2		document 1s?
3	А	This is another statement signed by Michael C. Kleitz,
4		stating that he cast a ballot
5		MR. RICHARDS: Objection, Your Honor.
6		THE COURT: Sustained, but it is a little
-		late.
8	BY MR	. CHALENSKI:
9	Q	Now, I show you Government's exhibit number twenty-one,
10		and is that document a letter received by the National
11		Mediation Board?
12	A	Yes, it is.
13	Q	And are you the custodian of these records?
14	A	Yes.
15	Q	And were these records made in the regular course of
16		business, or received in the regular course of business
17		of the National Mediation Board?
18	A	Yes.
19	Q	And is the regular course of business of the Board
20		to keep these records?
21	A	Yes, it is.
22		MR. CHALENSKI: I offer these documents
23		into evidence, Your Honor (offering to Counsel).
24		MR. RICHARDS: I object to the admission
25		of these documents into evidence, Your Honor, on the

- 1	
1	grounds that they are immaterial, and they are hearsay.
2	THE COURT: May I see them on your
3	hearsay objection?
4	MR. RICHARDS: Yes, (offering).
5	THE COURT: Could I see those earlier
6	exhibits?
7	THE CLERK: Yes, Your Honor (offering).
8	MR. CHALENSKI: Do you mean just the
9	exhibits following the election?
10	THE COURT: Yes, the earlier exhibits.
11	The materiality escapes me. Could you
12	come up. I do not see any objection to this material.
13	(Whereupon, the following took place
14	at the Bench, out of thehearing of the Jury.)
15	THE COURT: How is it material that they
16	did not cast a vote?
17	MR. CHALENSKI: What is material is that
18	the defendants elicited ballots from the employees for
19	the purpose of not causing them to be voted, and they
20	caused them to overturn the election because they did
21	not vote them.
22	THE COURT: How does that appear on this?
23	MR. CHALENSKI: They are letters from
24	their attorneys and they mentioned each of these
25	individuals.

1	THE COURT: Show me where? That is what
2	I was trying to see?
3	MR. CHALENSKI: Right there (indicating).
4	THE COURT: I see.
5	Yes, okay. It is overruled.
6	(Whereupon, the following took place
7	before the Court and the Jury.)
8	THE COURT: The objection is overruled.
9	Proceed.
10	MR. CHALENSKI: May I go through these
11	exhibits?
12	THE COURT: Yes.
13	MR. CHALENSKI: Government's exhibit num-
14	ber nineteen is an affirmation on the letterhead of the
15	Board and it says, ' I Paul Floto affirm that I cast a
16	ballot in the election conducted involving representation
17	of pilot employees of Broome County Aviation and Commute
18	Airlines.' It is signed by Paul Floto.
19	Then, Government's exhibit twenty is
20	a similar form on the National Mediation Board letter-
21	head and it says:
22	' I Michael Kleitz, affirm that I cast
23	a ballot in the election conducted in NLRB case number
24	34 involved in representation of pilots and employees
25	of Broome County Aviation and Commuter Airlines, Inc.

1 Then, Government's exhibit number twentyone is a letter to the National Mediation Board, 2 Was ton, D.C., attention, Mr. R. Casher, and this 3 letter is to inform you that I did vote, and signed 4 my name to the ballot in the election for the Teamster's union representing the pilots of Commuter Airlines and 6 Broome County Aviation in Binghamton, New York, and that 7 8 is from Jan Solberg. BY MR. CHALENSKI: Following the receipt of the letters from Mr. Solberg, 10 Mr. Folo and Mr. Kleitz, did the Manional Mediation 11 Board do anything? 12 Yes, the Board considered the whole question, and vali-13 dated the election. 14 And I show you number twenty-two for identification, 15 Q which is a letter to the Broome County Aviation, Inc., 16 and is that letter sent advising them that the election 17 was validated? 18 Yes. It is. 19 MR. CHALENSKI: The Government offers 20 exhibit twenty-two into evidence, Your Honor. 21 THE COURT: Received. 22 MR. RICHARDS: I have an objection to 23 24 it. THE COURT: I am sorry, I thought there 25

11	
1	was no objection.
2	It is overruled.
3	THE CLERK: Government's number twenty-two,
4	received in evidence.
5	(Government's exhibit number twenty-two
6	for identification, received in evidence).
7	MR. CHALENSKI: May I approach the Bench?
8	THE COURT: Is this in connection
9	with an offer?
10	MR. CHALENSKI: No, this is only in
11	relation to Government's exhibit one and two. I have
12	no forther questions of this witness except for the
13	possible likelihood that Government's exhibit numbers
14	one and two, which you have previously looked at,
15	that it becomes relevant to the issues of this case.
16	THE COURT: May I see it?
17	MR. CHALENSKI: I would like to establish
18	only the authenticity, in the likelihood that they may
19	become relevant.
20	THE COURT: You can go ahead and establish
21	the authenticity, and offer them later.
22	MR. CHALENSKI: Yes, Your Honor.
23	THE COURT: Don't tell us what is in
24	them.
25	BY MR. CHALENSKI:

- 1		
1	Q	Mr. Willits, I am handing you Government's exhibit one
2		and two for identification, and are you the custodian
3		of those two documents?
4	А	Yes, I am.
5	Q	And are those documents made in the regular course of
6		business of the National Mediation Board?
7	A	Yes, they are.
8	Q	And is it the regular course of business of the Board
9		to make and keep those records?
10	A	R. giit.
11		MR. CHALENSKI: That is all the questions
12		I have of this witness, Your Honor.
13		THE COURT: Any cross-examination?
14		CROSS EXAMINATION
15	BY MR	. RICHARDS:
16	Q	Mr. Willits, I show you Government's exh-bit eleven-a,
17		and there is a reference in that letter to the fact
18		that three employees, former employees of Commuter Airlines
19		had filed a proceeding with the National Mediation
20		Board seeking reinstatement?
21	A	I didn't understand that.
22	Q	Does that letter refer to the fact that three former
23		employees of the Commuter Airlines had filed a proceeding
24		in the National Mediation Board for reinstatement?
25	A	I don't interpret that meaning from that.

1	Q	Do you have any knowledge of any proceeding having
2		been filed with the Mediation Board regarding rein-
3		statement by any former employee?
4	A	Not that I recall.
5	Q	Well, showing you paragraph two, they talk about this
6		letter referring to a request pending before proper
7		authorities for reinstatement, and what does that mean?
8	A	Well, this is in answer to a letter that Mr. Winston
9		wrote and it is from Mr. Quinn, the executive secretary
10		and it says there are comments that regarding these
11		three men, that apparently, they have started some
12		action. But to my knowledge, that never developed.
13	Q	You had no knowledge of that proceeding?
14	A	That is right.
15	Q	And you don't know what the status of that proceeding
16		is now?
17	A	No.
18	Q	Is there a proceeding under the legislation allowing
19		employees to seek reinstatement if illegally expelled?
20		MR. CHALENSKI: Objection.
21		THE WITNESS: Is there an appeal?
22		MR. CHALENSKI: May the specific
23		legislation in mind be stated?
24	BY MR.	RICHARDS:
25	Q	Do you know, Mr. Willits, whether or not any appeals have

1		
1		been filedby any of these pilots regarding their
2	A	(Interrupting) Not to my knowledge.
3	Q	And before coming here today did you review your records
4		all of your records regarding the former employees of
5		Broome County Aviation?
6	A	Yes.
7	Q	Mr. Willits, on Exhibit four at the bottom, there is a
8		blind note which states, ' Dear Mr. Griswold: Will you
9		please advise whether this application has your approval.
10		and would you explain to me what that means?
11	A	Yes. The application is signed by the office of the
12		local of the applicant union and our rules require that
13		the International President, and the National President
14		of the organization sign such application or somebody
15		he designates. In this instance, Mr. Griswold, has
16		been desiganted by the International President of the
17		Teamster's union to sign such documents. He had not
18		done that, so this letter is an inquiry to Mr. Griswold
19		whether he, in fact, approves the application.
20	Q	Mr. Girswold is an officer of the Teamster's International?
21	A	Yes, right.
22	Q	And this letter was referred to him for his information?
23	A	A copy was directed to him for his approval.
24	Q	Did you subsequently get any correspondence from Mr.
25		Griswold regarding this inquiry?

- 1		
1	A	Yes, we did.
2		I believe it was by wire.
3	Q	And do you have that wire with you in Court today?
4	A	I think that perhaps I have it in my briefcase.
5	Q	Would you look for it, please?
6	A	Yes. It may take some digging.
7		Yes, I have it.
8	Q	May I see it, please?
9	A	I can take it out of here, if you wish (offering)?
10		MR. RICHARDS: Thank you. Your Honor,
11		I have no further questions. In regard to the earlier
12		exhibits offered by the United States Attorney, I have
13		no objection to exhibits three or four, or six through
14		fourteen. I would object to exhibit five on the grounds
15	- 5	that the exhibit is incomplete, and or course, I renew -
16		THE COURT: (Interrupting) These are
17		already received.
18		MR. RICHARDS: I was only referring to
19		those exhibits from fifteen through eighteen at the time
20		that I spoke.
21		THE COURT: As far as I know, any exhibit
22		that is now in evidence, was received over you objection
23		If you still object, it comes too late. It should have
24		been done at the time that they came in and were offered.
25		Proceed.

MR. CHALENSKI: I have no further 1 questions of Mr. Willits. 2 (Whereupon, the witness was excused.) 3 MR. CHALENSKI: The Government calls 4 Mr. Robert L. Slough. 5 ROBERT L. SLOUGH 6 called as a witness, being first duly sworn, was 7 examined and testified as follows: 8 DIRECT EXAMINATION 9 BY MR. CHALENSKI: 10 Where do you presently reside? 11 I live at 1491 Southwest 18th Terrace, Fort Lauderdale, 12 Florida. 13 And have you previously been employed by the Broome Q 14 County Aviation, Inc., and Commuter Airlines, Inc., 15 the defendants in this action? 16 Yes, I have. 17 And during what period of time? Q 18 I worked from May 12th, 1974 to October 3rd, 1974. A 19 And how long have you been -- you are a pilot? Q 20 Yes, I am. A 21 and how long have you been a pilot? Q 22 Since September of 1971. A 23 And you were employed as a co-pilot by Broome County Q 24 and Commuter Airlines? 25

H		
1	A	Yes, sir, I was.
2	Q	And do you know the differences in function for each
3		of those two airlines?
4	A	Yes, Commuter Airlines was a scheduled air carrier that
5		operated on a scheduled basis every day to the same
6		cities and and Broome County Aviation was a charter
7		service that would fly to any city that you chartered
8		the airplane to go to.
9	Q	Did you fly passengers for each airline?
10	A	Yes.
11	Q	And can you name the city which you flew passengers to
12		for Broome County Aviation, Inc., from within the state
13		of New York to outside the state of New York?
14	A	For Broome County I flew to such cities as Dayton, Ohio;
15		to Boston, Massachusetts; Washington and Syracuse; and
16		Bethpage Airport on Long Island.
17	Q	No, just cities outside of New York. Can you name
18		some city that you flew to outside of the state of
19		New York for the defendant, Commuter Airlines and carried
20		passengers?
21	A	Yes, Washington National Airport, in Washington, D.C.,
22		and Washington Dulles Airport in Washington, D.C. The
23		rest were in New York State that I flew to.
24	Q	And did you carry mail as a pilot?
25	A	Yes.
	0	

1 For these defendants? Q Yes, I did. 2 And you are employed as a co-pilot, is that correct? Q 3 Yes. A And up to September of 1974 were the employees of 2 5 Broome County Aviation and Commuter Airlines organized 6 in any fashion? 7 No. sir, they weren't. 8 And I mean by organized, had they joined any union? Q No, sir. A 10 And did anything happen in September of 1974 regarding 11 organizational activity? 12 Yes, when the pilots as a group tried to organize a 13 union from the Teamster's union. 14 And what was your role in those organizational activities? 15 I was the one that instigated the contact with the 16 union and tried to organize the union in Commuter 17 Airlines. 13 And what specific contact did you make? Q 19 I called Executive Jet Aviation, that had a union, 20 to find out who represented the pilots, and they told 21 me to call the Teamster's, which I did. Then I 22 organized a meeting for the Teamster's representative 23 to talk to the Commuter pilots. 24

And when did that contact take place?

25

Q

	1	
1	A	I called on September 26th of 1974 to the Teamster's
2		office in New York City.
3	Q	Had there been any other activity prior to that time
4		concerning the organizational letter in evidence that
5		you were a party to?
6	A	Yes, sir. I wrote a letter and distributed it to the
7		other pilots of the company on my thinking of the course
8		we should take toward representation.
9		MR. SHANAHAN: Would you read that answer
10		back?
11 .		(The previous answer was read by the
12		Reporter.)
13	BY MF	A. CHALENSKI:
14	Q	Now, I hand you Government's exhibit number twenty-three,
15		which is a copy of a letter dated September 24, 1974
16		to Commuter pilots, and I ask you whether that is a copy
17		of the letter which you prepared and just testified to?
18	A	Yes, it is.
19	Q	And do you know what happened to the original letter?
20	A	No, sir, I don't remember.
21	Q	Is the original letter in existence?
22	A	I really don't know.
23		THE COURT: Did you mail the original?
24		THE WITNESS: No, sir, I ran off a bunch
25		of copies on a copy machine and I think that I just left

1 the original in the basket by the copy machine. BY MR. CHALENSKI: Is that your best recollection of what happened to the Q original? 4 Yes, sir. I can't really remember what I did do with it 5 for sure. 6 But you had the original? 7 2 Yes, I made it and then I copied it. 8 A And that original is no longer in your possession? 9 2 No, sir, it is not. 10 A And you have no idea where that original is? 11 2 No, sir, I don't. 12 A Do you know John Herrington? 13 Q Yes, sir, I do. 14 A And who is he? 15 Q Assistant Chief Pilot of Commuter Airlines. 16 A And did anybody assist you in the preparation of this 17 Q letter, Government's exhibit number twenty-three? 18 No, sir. A 19 Did you have any conversation with Mr. Herrington 20 Q concerning that letter? 21 Yes, sir, I did. 22 A And when did those conversations take place? 23 Q I was on a flight for Commuter Airlines with John 24 Herrington as a Captain. 25

- 1	
1	Q And do you know what date that was?
2	A It was approximately three or four days after I mailed
3	that letter, and I can't remember exactly what day.
4	I cannot remember definitely what day.
5	Q But on or about the date on this, so it would be three
6	or four days after that?
7	A Yes, it was.
8	Q And what was your conversation with John Herrington?
9	MR. SHANAHAN: Just a minute, we object
10	to that.
11	THE COURT: Sustained.
12	BY MR. CHALENSKI:
13	Q What did you tell John Herrington about this letter?
14	MR. SHANAHAN: Same objection.
15	THE COURT: Sustained.
16	MR. CHALENSKI: Your Honor, if the
17	objection is on the immateriality
18	THE COURT: (Interrupting) It is to the
19	hearsay. Is that your objection, to hearsay?
20	MR. SHANAHAN: Yes.
21	THE COURT: Sustained.
22	MR. CHALENSKI: I just don't understand
23	the hearsay nature. This witness is testifying to what
24	he told Mr. Herrington about this letter, and not what
25	Mr. Herrington told him.

*

1	THE COURT: I don't understand this
2	is the letter that he wrote and never mailed, and he
3	sat down and wrote a statement, and there is no protative
4	value in this testimony.
5	MR. CHALENSKI: I can make that point
6	clear. One of the points which we mentioned in the
7	Government's brief is that a spy within the camp of the
8	union is relevant and material to the case.
9	THE COURT: We are not talking about the
10	relevance and materiality. We are talking about its
11	admissibility. Sustained. It is hearsay and go ahead.
12	BY MR. CHALENSKI:
13	Q What did you tell Mr. Herrington about that letter?
14	MR. SHANAHAN: Objection.
15	THE COURT: Sustained.
16	BY MR. CHALENSKI:
17	Q Did you have a subsequent conversation with the defendant,
18	Ted Bell, concerning this letter?
19	A Yes, I did.
20	And what did the defendant Bell tell you about that
21	letter?
22	MR. SHANAHAN: I object to it in that
23	form.
24	. THE COURT: Sustained.
25	MR. CHALENSKI: May I approach the Bench,
	■ MARCHAN STANDARD S

- 11	· j
1	and offer myself
2	THE COURT: (Interrupting) No, it is
3	hearsay.
4	MR. CHALENSKI: Defendant Bell is on
5	trial here. It is a declaration against interest on
6	his
7	THE COURT: (Interrupting) Defendant Bell?
3	I am sorry, all right.
9	MR. CHALENSKI: I have no asked what
10	John Herrington has told the witness.
11	THE COURT: You asked for the conversation
12	between this witness and Bell. All right.
13	BY MR. CHALENSKI:
14	Q Did Defendant Bell tell you anything about this letter?
15	MR. SHANAHAN: I object to that in that
16	form.
17	THE COURT: Lead him. Did you have a
18	conversation, and what was said and by whom.
19	BY MR. CHALENSKI:
20	Q Did you have a conversation with the Defendant Ted Bell
21	concerning this letter?
22	A Yes, I did.
23	THE COURT: When?
24	THE WITNESS: The day I was fired, sir.
25	THE COURT: When?

1	THE WITNESS: October 3rd, 1974.
2	THE COURT: Where?
3	THE WITNESS: In Mr. Winston's office.
4	THE COURT: Who was present?
5	THE WITNESS: Mr. Bell and myself.
6	THE COURT: Anyone else?
7	THE WITNESS: No, sir.
8	THE COURT: All right. What did you say
9	and what did Mr. Bell say?
10	THE WITNESS: I told Mr. Bell I thought
11	I was being fired for union activity, and he said that
12	he knew nothing about any union activity or any letters
13	I might have decided to write or send out throughout
14	the company.
15	MR. SHANAHAN: May I have that read back,
16	please?
17	THE COURT: Any letters that I might
18	decide or did write or send out through the company.
19	MR. SHANAHAN: May I get the whole thing?
20	(The previous answer was read by the
21	Reporter).
22	BY MR. CHALENSKI:
23	Q Did the Defendant Bell say anything else about this
24	letter?
25	MR. SHANAHAN: I object to this letter.

1	There isn't any reference to this letter up to this
2	point.
3	THE COURT: I think that you should
4	identify what you are talking about.
5	BY MR. CHALENSKI:
6	Q Did the Defendant Bell say anything else with respect
7	to Defendant exhibit twenty-three?
8	MR. SHANAHAN: I object to the form of
9	that question. If I understood the previous answer
10	correctly, Mr. Bell indicated in substance that he knew
11	nothing about letters.
12	THE COURT: Overruled.
13	MR. SHANAHAN: And Counsel now seeks to
14	bring it to this letter.
15	THE COURT: Overruled.
16	BY MR. CHALENSKI:
17	Q Please answer the question.
18	A Could you repeat the question?
19	MR. CHALENSKI: Would the reporter read
20	the question?
21	(The previous question was read by the
22	Reporter.)
23	THE WITNESS: It was his understanding
24	that the letter had been prepared by some other people
25	including Ira Josephson.

1 BY MR. CHALENSKI: And was that letter prepared by those other people? No, sir I was the only person that had anything to do 3 with the preparation of that letter. 5 And had you told anybody at any time that those other Q persons assisted in the preparation of this letter? 6 Yes, sir, I told Assistant Chief John Herrington that 7 Α 8 they had assisted me in preparing the letter. 9 Anybody else? 2 10 A No, sir. Was that a fabrication that other persons had prepared 11 that letter? 12 Yes, it was, sir. 13 A Were you present at a meeting on October 3rd, 1974, 14 Q at the Holiday Inn, in Vestal, New York? 15 Yes, sir, I was. 16 A And how did that meeting come to take place? 17 2 I contacted the Teamster's representative, Alex Calder, 18 and he suggested that I get all of the pilots together 19 in one group and he could meet with them and explain 20 the process of forming a union. I got the pilots 21 together at a meeting at the Holiday Inn so that he 22 could address them. 23 At the commencement of that meeting where were you 24 Q

physically located?

By the doorway. Anybody else with you? Hr. Calder. 3 And anybody else with you? Ira Josephson. A 5 Anybody else? 2 No, sir. A And what did you and Mr. Calder and Ira Josephson Q 8 do at that time? We were directing the pilots to the room for the meeting, 10 and introducing the pilots to Mr. Calder. 11 And after you introduced the pilots to Mr. Calder, where 12 did they go? 13 They all went into the room, the meeting room. 14 And do you recall who was present at that meeting? 15 Yes, sir. There was myself, Mr. Calder, Ira Josephson, 16 Mike Kleitz, Michael Baan, Gary Leonard, Hank Exel, 17 Norman Furchild -- let me see --18 (Interrupting) Do you recall Mr. Herrington being present 19 at that meeting? 20 Yes, sir, Mr. Herrington was there. 21 how about Mr. Hummell? 22 Yes, Jim Hummell was there, sir. 23 And Mr. Schultz?

Yes.

- 1			
1	Q.	And Mr. Levan?	
2	A	Yes, sir, I believe Mr. Levan was.	
3.	Q	Mr. Williams?	
4.	A	I can't honestly remember if Levan was there or not.	
5	Q	Mr. Floto?	
6	A	Yes, I believe Paul Floto was there.	
7	Q	Now, did Alex Calder address that meeting?	
8	A	Yes, sir, he did.	
9	Q	And did he, during the course of his address to the	
10		persons present, did he mention anybody by name?	
11		MR. RICHARDS: Objection, Your Honor, as	
12		hearsay.	
13		THE COURT: I am sorry, I couldn't hear	K ME THE
14		the question. Who is he?	-
15		MR. CHALENSKI: Alex Calder, the union	e Consultan
16		representative.	-
17		THE COURT: Sustained.	B-T-Mater
18		MR. CHALENSKI: We are not offering this	MEN'S YEAR
19		to show the proof of any statements by Mr. Calder. Only	MELECULAR DA
20	-	to show that he did mention names at that meeting.	CYNTHESIA
21	-	THE COURT: Sustained.	-
22		We will take a short recess.	THE OWNER.
23 ;		(After a short recess, the proceedings	SCHOOL SHOOTIS
- 24		were resumed.)	PRINCIPLE SET
25		MR. CHALENSKI: Your Honor, may I be hear	align mare

- 11		
1		in support of that last question that I directed?
2		THE COURT: No, that is not necessary.
3 .		Proceed.
4		MR. CHALENSKI: May I make an offer of
5		proof, Your Honor?
6		THE COURT: Put your questions.
7	BY MR.	CHALENSKI:
8	Q	During the course of that meeting, was your name
9		mentioned by anybody?
10	A	Yes, sir.
11		MR. SHANAHAN: Objection.
12		THE COURT: Sustained.
13	BY MR.	. CHALENSKI:
14	Q	Under what circumstances did you leave the employ of
15		the defendant?
16	A	I was fired.
17	٩	When?
19	A	The following morning or the morning after the meeting,
19		October 3rd, 1974.
20	Q .	And when was that meeting?
21	A	October 2nd, 1974.
22	۹	In the evening of that day?
23	A	Yes, sir.
24		THE COURT: You are talking now about
25		a meeting with whom?

1	THE WITNESS: The pilot's organization,
2	well, the group of pilots that worked for Commuter
3	Airlines, sir.
4	BY MR. CHALENSKI:
5	Q - And you were fired the next morning?
6	A Yes, sir, I was.
7	Q And who fired you?
8	A Mr. Bell, sir.
9	Q And what did he tell you during the course of your being
10	fired?
11	A That I was being fired for incompetency and a bad
12	attitude, and that two of the pilots, one being Mr. Mike
13	Kleitz, had expressed dissatisfaction with my performance
14	as a co-pilot.
15	Q And did he say anything else?
16	A Yes, sir. I told him that I felt I was being fired for
17	union activity because I didn't think I was incompetent
18	or a bad pilot at all, and he said he knew nothing about
19	any union activity or any letters that I wanted to write
20	and he didn't care about it or didn't have anything to
21	do with it.
22	MR. SHANAHAN: Would you read back the
23	last answer, please.
24	(The previous answer was read by the
25	Reporter.)

1		
1	BY MR.	. CHALENSKI:
2	Q	Did you request any reasons from Mr. Bell?
3	A	Yes, sir, I asked Mr. Bell if he would give me a written
4		statement as to the reasons I was being fired, and he
5		would not do that, sir.
6		MR. SHANAHAN: What was the answer to that?
7		(The previous answer was read by the
8		Reporter.)
9	BY MR	. CHALENSKI:
10	Q	Do you know what an airline transport rating is?
11	A	Yes, I do.
12	Q	And what is that?
13	A	That is the highest pilot certificate that you can
14		achieve.
15	Q	And did you obtain that rating?
16	A	Yes, sir, I did, sir.
17	Q	And when did you obtain it?
18	A	One month after I was fired from Commuter Airlines.
19	Q	And did you ever destroy any property of Commuter
20		Airlines or Broome County Aviation, Inc.?
21	A	No, sir, I never did.
22	Q	Did any of the officers of the corporation express at
23		any time prior to the time that you were fired, that
24		they were unhappy with your performance as an employee?
25	A	No, sir.

1	Were you ever disciplined by the corporation?
2	A No, sir, I wasn't.
3	THE COURT: How long did you work for
4	them?
5	THE WITNESS: Six and a half months, sir.
6	MR. CHALENSKI: May I approach the Bench?
7	THE COURT: No.
8	How long had you been there before you
9	wrote this letter to the Teamster's?
10	THE WITNESS: Approximately six months,
11	sir.
12	THE COURT: Six months?
13	THE WITNESS: Yes, sir.
14	THE COURT: And you were fired?
15	THE WITNESS: After I wrote the letter,
16	sir, yes.
17	THE COURT: And it was the morning
18	following the meeting with the other pilots?
19	THE WITNESS: Yes, sir.
20	THE COURT: And what was the subject of
21	the discussion that evening and not what was said? What
22	was the subject?
23	THE WITNESS: The Teamster's union, sir.
24	THE COURT: What about the Teamster's
25	union?

1	THE WITNESS: I wanted the pilots to Le-
2	come organized with the Teamster's union.
3	THE COURT: Had you urged their joining
4	the union?
5	THE WITNESS: Yes, sir, I did.
6	THE COURT: All right.
7	MR. CHALENSKI: Subject to my reservations
8	on the questions concerning what statements were made
9	at that meeting, I have no further questions of this
10	witness. I do submit that that question is not hearsay
11	and that it is material and relevant and competent in
12	this proceeding, and that the statement that was made
13	would be offered not for the purpose of the truth con-
14	tained therein, and this has no bearing about the facts
15	THE COURT: (Interrupting) I have already
16	ruled against you on that.
17	CROSS EXAMINATION
18	THE COURT: I have just one question.
19	Is your theory communication?
20	MR. CHALENSKI: Yes, Your Honor.
21	THE COURT: To Bell?
22	MR. CHALENSKI: Yes, Your Honor,
23	definitely.
24	THE COURT: All right, go ahead.
25	DIRECT EXAMINATION (Continuing)

1	БҰ	MR. CHALENSKI:
2	Q	Mr. Slough, did Mr. Calder mention any names during the
3		course of that meeting?
4	A	Yes, sir, Mr. Calder said that the union procedure had
5		started the day I instigated my call to him.
6	Q	And that was during the course of his address to all of
7		the persons present?
8	A	Yes, sir.
9	Q	Did he mention any other dates?
10	A	He mentioned the fact that Ira Josephson would probably
11		come under some pressure, or
12		MR. RICHARDS: (Interrupting) Objection,
13		Your Honor.
14		THE COURT: I am taking it merely for
15		the fact that it was said and not for the truth. Go
16		ahead.
17	ВЧ	MR. CHALENSKI:
18	Q	Please continue.
19	A	He said that Ira Josephson would probably come under
20		suspicion or some suspicion or discipline from the
21		management.
22	Q	And did he mention any other names?
23	А	No, sir, I don't believe so.
24	વ	Did anybody speak, any of the pilots speak at that
25		meeting?

1	
1	A Yes, the pilot Michael
2	MR. RICHARDS: (Interrupting) Again,
3	an objection as hearsay.
4	THE COURT: Overruled, and go ahead.
5	THE WITNESS: Yes, sir. The pilot
6	Michael Baan was a spokesman at the meeting to the
7	group of pilots.
8	BY MR. CHALENSKI:
9	Q And could you characterize his statement as to whether
10	or not they were pro, or for the union?
11	A Yes, sir. He had gone to another company that had a
12	union, and he felt that we should have a union, because
13	it worked out quite well.
14	Q Anybody else speak at that meeting?
15	A I don't believe so, not as a spokesman.
16	MR. CHALENSKI: Thank you, Mr. Slough.
17	That is all of the questions, I have.
18	MR. SHANAHAN: In view of that, I move
19	to strike it out because there is no communication
20	THE COURT: (Interrupting) Well, there
21	is an inference of it, perhaps. At this point, no.
22	And without prejudice to the renewal of the motion.
23	MR. CHALENSKI: There is also evidence
24	of communication, and that is with the
25	THE COURT: (Interrupting) Please, no.

1	If I wanted an argument, Mr. Chalenski, I will ask for
2	it.
3	MR. CHALENSKI: Yes, Your Honor.
	THE COURT: Proceed with the cross
4	
5	examination.
6	CROSS EXAMINATION
7	BY MR. RICHARDS:
8	Q Are you certain of the date in which the pilots and
9	co-pilots met to listen to Mr. Calder?
10	A Yes, sir, it was October 2nd, 1974.
11	Q And had you recently read anything to refresh your
12	recollection, or how do you know it was that particular
13	date?
14	A Well, I was fired October 3rd, 1974.
15	Q I see. How was notice of this meeting distributed?
16	A I did it by telephone, sir.
17	Q I am sorry?
10	A I called the other pilots by telephone.
19	Q And did you contact all of the pilots?
20	A I believe I contacted approximately half of them, and
21	they contacted the rest by word of mouth.
22	Q All right. At the time that you were discharged, were
23	you part of the Elmira Operation?
24	A Yes, sir, I was.
25	Q And had you brought in a flight from Elmira to Binghamto

at the time that you spoke to Mr. Bell? That morning, sir? Yes. 3 Yes, sir, that was my first flight of the day. 4 Q And after you spoke with Mr. Bell, you no longer operated 5 a flight for the company, is that correct? 6 No, sir. I had two back home that afternoon. 8 You mean as a passenger? A As a pilot. As a pilot? 10 I didn't do anything, but I rode in it. 11 Did the company have a policy as to on-call requirements 12 for pilots who could be assigned weekend duty? 13 I don't know of any clear cut policy, no, sir. 14 Were pilots occasionally assigned weekends when they 15 should be either at home, or at a place where the 16 company could locate them in the event that their services 17 were needed? 18 In Binghamton. 19 Well, the company had a policy? 20 Yes, sir, but we were in Elmira: 21 And would you tell me what that policy was? 22 I am not familiar. The only policy I knew of is Ted 23 Bell would tell you personally that you were on call 25 for the weekend.

U.S. COURT REPORTERS

1	9	Occasionally pilots were assigned duties on the weekend,
2		is that correct?
3	A	There were scheduled flights on the weekend.
4	2	Th€re was what?
5	A	Scheduled airline flights on every weekend.
6	Q	But were there occasions where you had to be on call?
7	A	Yes, sir, Mr. Bell would tell you that you were on call
8		for the weekend.
9	Q	When you were on call what was required of you as a pilot?
10	А	You were supposed to be able to get to the airport within
11		a short time, I think, for a flight, and a half-hour or
12		an hour, like that.
13	વ	And were you supposed to be strike that. Was the
14		company supposed to be able to locate you by telephone?
15	A	Yes, sir.
16	<u>و</u>	And so in the event that you weren't at home, or were
17		at some location, you would leave your name where somepocy
18		could locate you?
19	A	Yes, sir.
20	Q	Now, at the time that you were discharged, where were
21		you living?
22	A	I was living in Elmira, sir.
23	Q	Where?
24	Α .	In Elmira, sir; Elmira, New York.
25	Q	And was your family from Rochester at that time?

U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N.Y.

1	F.	Yes, sir.
2	Q	Now, were there occasions when you spoke with Mr. Bell
3		or some other representative of the company on not being
4		on call, and the company being unable to locate you?
5	A	Could I hear that one more time?
6		(The previous question was read by the
7		Reporter.)
8		THE WITNESS: On one occasion, a Friday
9		afternoon.
10	BY MR	. RICHARDS:
11	Q	And would you relate to the jury the circumstances of
12		that?
13	А	Yes, sir. I was in Rochester, New York, for an
14		appointment for my eyes, for a medical doctor, or an
15		eye doctor.
16	Q	And had you advised the company as to your location on
17		that weekend?
18	A	No, sir.
19	Q	Now, was there I will withdraw that question.
20		Was there a time on September 30th, 1974,
21		when a pilot failed to show up for a flight originating
22		in Elmira, and you had to contact the home office in
23		Binghamton?
24	A	Yes, sir.
25		THE COURT: Could you tell me when those

U.S. COURT REPORTERS

\$

1 occasions were? What was the first occasion when you were in Rochester? 2 BY MR. RICHARDS: 3 0 Do you recall the date? No. sir. I don't. Was it in June of 1974? 0 6 That sounds about right to me, sir. 7 THE COURT: How was it in relation to the 8 time that you were fired, and before or after, or what 9 or how many months? 10 THE WITNESS: It was approximately four 11 months before I was fired. 12 THE COURT: Four months before you were 13 fired? 14 THE WITNESS: Yes. 15 BY MR. RICHARDS: 16 Do you recall the incident when you contacted the 17 company advising them that the Captain had not shown 18 up for flight, and that was on September 30th? 19 Yes, sir, I recall that. 20 And was it necessary for the company to send another 21 airplane and pilot to pick up a passenger at Elmira? 22 Yes, sir. 23 THE COURT: And when was that? 24 BY MR. RICHARDS: 25

1 Was that September 30th, 1974? 0 Yes, sir. 2 And in relation to the time that you were fired, how Q 3 much before? 4 That was only, I would say, less than a week before. 5 Did you advise the company as to the number of passengers 6 who would have to be picked up at the Elmira Airport? 7 By the time I knew how many passengers was there, the 8 plane was already on its way to Elmira. 9 At the time that you called the company, it was necessary 10 2 to get the proper type of airplane flown to Elmira to 11 pick up the passengers, isn't that correct? 12 Yes, sir. 13 And it was necessary to know the number of passengers 14 to be picked up at Elmira? 15 Yes, sir. A 16 And my question to you is: do you recall advising the 17 company as to the number of passengers that would be 18 on that flight? 19 Yes, sir. 20 And when the airplane arrived, did you find that you 21 had miscounted the passengers? 22 No, sir. 23 A You have no recollection of that?

No, I didn't miscount them at all.

- 1	1		
1	Q	And as a matter of fact, the airplane that did arrive	
2		was unable to move those passengers?	
3	A	One passenger who didn't have a ticket, that Mr. Bell	
4		put on the airplane, himself, and I had nothing to do	
5		with it.	
6	Q	Now, you were also responsible for counter duty, isn't	
7		that correct?	
8	A	Yes, sir, that is where I was, sir.	
9	Q	And your counter duty as a full pilot would be to be	
10		at the counter early in the morning to take the monies	
11		of passengers, and to make out the manifest or order	
12		that you give the passengers on the airplane, is that	
13		correct?	
14	A	Yes, sir.	
15	Q	And following the completion of your duty as a counter	
16		man, you then become a co-pilot for the aircraft?	
17	A	Yes, sir.	
18	Q	And did you have occasion to complain with the girls	
19		in the office regarding your duties at the counter?	
20	A	Yes, sir.	
21	Q	And did you frequently indicate to the girls in the	
22		office that in your opinion, a co-pilot should not be	
23		responsible for counter duty?	
24	A	Not frequently, I didn't, no, sir.	
25	Q	But you did on some occasions?	

i		
1	A	Yes, sir.
2	Q	And when you were hired, were you advised by the
3		company that you would be responsible for these counter
4		duties?
5	A	Yes, sir.
6	Q	According to my records, Mr. Slough, on October 1st, 197
7		you had a flight with Hank Excel, and do you recall that
8		particular flight? Excuse me, sir, it was from Bingham-
9		ton, and I think it was to Kennedy Airport?
10	А	I probably was on it, but I can't recall the flight.
11	Q	You can't recall the flight?
12	A	No.
13		THE CLERK: Defendant's Exhibit A, marked
14		for identification.
15	-	(Document marked Defendant's Exhibit A
16		for identification.)
17	BY MR	. RICHARDS:
18	Q	I would like to show you Defendant's exhibit A, marked
19		for identification, and ask you if you recognize that
20		ticket which was sold on that occasion for a flight
21		that you were the co-pilot of (offering)?
22	A	This ticket is, the top one is in my handwriting, but
23		the bottom ticket I am not sure who wrote it.
24	Q	You have no recollection of that flight?
25	А	I must have obviously been on the flight, but I just
THE RESERVE OF THE PARTY OF THE	19	

1 can't remember the flight. This ticket I wrote, and that is my handwriting. 2 Q That 1s? 3 But this is not my handwriting here (indicating). 4 And when that was written were you handed cash for the Q 5 flight, in lieu of a check? 6 Yes, it says cash right there. 8 Q And the procedure when you are handed cash at the counter is to put the cash in an envelope and then to eventually 9 hand it into the main office, is that correct? 10 Yes, sir. It went into an envelope, it went into an A 11 envelope and we had a cash box or counter thing that we 12 locked the stuff in there. 13 Q Was all of the cash put in this envelope? 14 A Sure; yes, sir. 15 Were you always required to keep the cash box unexposed Q 16 from the public view? 17 Yes, sir. It was underneath the counter, sir. 18 And were there occasions when someone would speak to Q 19 you about your failure to put the box away, away from 20 the public view? 21 As a memo going out, or directed personally to me? 22 A A conversation with any representative of the company? 0 23 We were told that when I was hired. 24 Were you ever hollered at for not doing that? 25 2

I don't honestly remember. I don't think I was. Now, how would you describe your relationships with 0 3 the passengers? 4 I thought it was a very good relationship. A 5 Did you ever have any incident or problems with passengers that were reported to the main office? 6 7 Not that I know of. 8 Were you, at the time that you were hired, told that 9 as a co-pilot you were responsible for keeping your 10 aircraft clean and picked up? 11 Yes, sir. 12 Were you ever spoken to by any member of the company concerning your failure to keep your aircraft clean? 13 No, sir. 14 Was there any written documentation or notice mailed 15 out to either yourself, or by the Teamster's, concerning 16 17 this October meeting? No, sir, it was done by phone. 18 Incidently, when you mentioned the T.R. rating, you 19 in effect are saying that to be the pilot of an aircraft 20 carrying passengers, you are required to have a T.R. 21 22 isn't that correct? 23 Under 121 Operation? 24 Yes.

25

Yes, sir.

- 1	Q	And before you can become a pilot you must have your
2		A.T.R.?
3	A	No, sir, I took four years and only a Captain has to have
4		an A.T.R. and co-pilots don't have to be.
5	ର	But explain to the jury what you mean by that part 121?
6	A	That is a list of rules and regulations that the
7		Government sets down for an air carrier that is carrying
8		any public passengers, or offering transportation to
9	•	the public.
10	2	And these are put out by the Federal Aviation Agency?
11	A	Yes, sir.
12	2	And also they concern air taxi operators and smaller
13		carriers?
14	A	That is part 135.
15	Q	Perhaps you are right. But under those circumstances,
16		the pilot must have an A.T.R. isn't that correct?
17	A	Under part 121, sir, but you see you have a Captain and
18		a co-pilot, and they come under idfferent requirements.
19		A Captain has to have an A.T.R.
20		MR. RICHARDS: I have no further
21		questions.
22		THE COURT: Mr. Shananan?
23	BY MF	R. SHANAHAN:
24	Q	Mr. Slough, as I understand it, in point of time,
25		would it have been sometime in September of 1974 when

you said that you made the telephone call that eventually 1 ended you up at the Teamster's office in New York? Yes, I believe I called them on September 26th, 1974. On September 26th, all right. And at that time, without .4 going into the details, but at that time did you have 5 some conversations with Mr. Calder? 6 Yes, sir, I asked him if he would --(Interrupting) No, did you have a conversation with 8 him? 9 Yes, sir. A 10 And that was by telephone? Q 11 Yes, sir, it was. A 12 And had you, previous to that time, known him or had 13 you ever met him? 14 No, sir. A 15 Now, I understand that you prepared a letter that was Q 16 marked exhibit twety-three? 17 Yes. 13 And what was the date of that letter? Q 19 September 24th, I believe. A 20 So the letter that you identified for Mr. Chalenski was Q 21 a letter that was written, then, two days before your 22 call to New York City? 23 Yes, sir. 24 Would that be correct? Q

3

1	A	Yes, sir.
2		MR. SHANAHAN: Do you have that exhibit,
3		please?
4		MR. CHALENSKI: Yes. (offering).
5	BY MR.	. SHANAHAN:
6	Q	And as I understand your testimony, this letter that was
7		dated September 24th was a letter that you composed
8		yourself, would that be correct?
9	A	Yes, sir.
10	Q	And you mailed this letter to various individuals?
11	A	No, sir, I didn't mail the letter. I just the copies
12		in the pilots' mailboxes at the office for the home
13		office in Binghamton.
14	Q	Would it be correct, then, that the various pilots and
15		co-pilots had letter boxes in the office somewhere?
16	A	Oh, yes, sir. Every pilot had his own mailbox.
17	Q	And this would be in the office of the Commuter Airlines,
19		would it?
19	A	Yes, sir.
20	Q .	And located where? In Binghamton or in Elmira?
21	A	Binghamton, sir.
22	Q	So that when you tell us that you put copies of this
23		letter, exhibit twenty-three, in the mailboxes, you
24		mean that you personally deposited a copy of this letter
25		in each of the mailboxes of the various pilots and co-

pilots? Yes, sir. A Now, from the time that you prepared this letter. Q 3 exhibit twenty-three, to the time that you made your telephone call to New York City, which was on September 5 26th --6 7 Yes. -- were there any meetings between those two dates? 8 What do you mean by meetings? A 9 Any meetings that you attended? 10 No, sir. 11 Between those dates? Q 12 No, sir. Excuse me, sir, between the letter and the A 13 phone call? 14 Yes, between the letter and the phone call? Q 15 No, sir. 16 A So that the first activity of yours, if I follow it Q 17 correctly in point of time, was the preparation of the 18 letter? 19 A : . Yes, sir. 20 And then two days later the telephone call? 21 Yes, sir. A 22 Would that be right. Now, previous to the writing of 23 Q this letter on September 24th, had you contacted any 24 labor organizations by telephone, or in any other

1 manner? 2 Yes, sir, I had. 3 And when was that? 4 I called another company and talked to their representa-5 tive -- I called another company to talk to them about -6 they had a union and I wanted to find out how they got 7 the union. 8 You called another company, and could you tell us what 9 company you are talking about? 10 Executive Jet, in Columbus, Ohio, and I asked them who 11 was representing them. 12 And when was that telephone call made? 13 It was -- I can't remeber the exact date, but it was 14 two or three days before I wrote that letter. 15 The letter is dated September 24th and would it have been 16 around the 20th, or the 21st, would you judge? 17 Yes, sir. 18 And after you made this call that you are telling us now, 19 to another company, did you make any other calls before 20 this letter? 21 No, sir. 22 Well, had you contacted anyone other than this person 23 that you mentioned connected with another company? 24 Oh, I contacted some other pilots, but no other union 25 officials or anybody like that.

- 11	1
1	And you had not, up to the time that you prepared this
2	letter, contacted any union organizations whatsoever?
3	A No, sir.
4	a And then, as we have already covered, following the
5	letter, you did make the call that ended up by your
6	talking to Mr. Calder?
7	A Yes, I did.
8	Q And that would be correct. Now, you indicated that you
9	had some conversation with a John Herrington with
10	reference to this letter?
11	A Yes, sir.
12	Q And when do you say that that conversation took place?
13	A I was in the cockpit of an airplane when I was flying
14	for Commuter Air.
15	Q And when was that?
16	A Approximately the day it came out.
17	Q The day after the letter came out?
18	A Oh, yes, sir.
19	Q And having in mind that the letter is dated September
20	24th, are you talking now about September 25th?
21	A September 25th, or September 26th. I can't remember
22	if it was the next day or two days, but it was directly
23	after the letter.
24	Q Was Mr. Herrington the Captain?
25	A Yes, he was.

il		
1	Q	And you said that you had a conversation with him in
2		the cockpit of an airplane?
3	A	Yes, sir.
- 1	Q	And was that on an occasion that you were flying as
5		co-pilot with him?
6	A	Yes, sir.
7	Q	And do you recall where you were going to or where you
8		were coming from at the time of this conversation?
	A	We were going to White Plains.
9	Q .	And this was a scheduled flight to White Plains, was it?
10	Α .	It was there was a scheduled flight to White Plains,
11		but this was at a different time because there was
12	-	weather and radar problems, and we were delayed on the
13		end of the runway at Elmira or Binghamton for 45 minutes
14		before we got on the way.
15		THE COURT: Had you placed a letter in
16		
17		Herrington's box?
18		THE WITNESS: Yes, sir, I had.
19	BY MR	. SHANAHAN:
20	Q	And this was, I take it, a casual conversation that you
21		and he were having as you traveled?
22	A	No, sir, we were delayed on the ground for 45 minutes
23		in the airplane, and we just sat in the airplane waiting
24		for our departure, and he was talking about it.
25	Q .	And it was during the period of time that you were

1		waiting permission to take off?
2	А	Yes, sir.
3	Q	And this was then in Elmira?
4	A	No, in Binghamton, sir.
5	Q	And you say that you had, at that time, a conversation
6		with Mr. Herrington in reference to the letter?
7	Α ·	Yes, sir.
8	Q	And he had received one of these letters, or at least
9		you had placed one in his box, had you?
10	A	Yes, sir, I had.
11	વ	And what did you tell Mr. Chalenski you said with
12		reference to this letter to him?
13	A	Well, Mr. Herrington mentioned the letter to me first.
14	Q	I beg your pardon?
15	A	Mr. Herrington mentioned it to me first.
16	Q	I don't care who mentioned it first. I think that you
17		said that he said something about the letter?
18	A	I told Mr. Herrington that the letter had been prepared
19		by Josephson, Leonard, and maybe another, and myself.
20	Q	And in fact what you told him in that regard was not
21		true?
22	A	No, sir, it wasn't.
23	Q	Because you told us, if I understood you correctly,
24		that you alone had prepared the letter?
25	A	Yes, sir.

1	Q	So that when you told Mr. Herrington that Josephson,
2		and was it DeLaurentis, and was there a third person?
3	A	Yes, sir, Leonard.
4	Q	Leonard?
5	A	My roommate, yes, sir.
6	Q	And those three people that prepared the letter with
7		you, you were not telling him the truth?
8	A	No, sir, I wasn't.
9	Q	And now, let me ask you. was Herrington also working
10		out of the Elmira office?
11	A	No, sir, he was staioned in Binghamton.
12	Q	He was stationed in Binghamton?
13	A	Yes, sir.
14	Q	And I think that you answered some of us here that you
15		were working out of Elmira?
16	А	Yes, sir, I was.
17	૨	And was Mr. Herrington somebody that you flew with on
18	H	various occasions?
19	A	Yes, he was the assistant chief pilot.
20	Q	And were you and he on friendly terms, ordinarily?
21	А	Oh, yes.
22		THE COURT: How long had Herrington been
23		with the company, do you know?
24		THE WITNESS: A very long time, sir, and
25		I don't know. A number of years.

THE COURT: He was the chief pilot? 1 THE WITNESS: Assistant chief pilot, 2 under Mr. Bell. 3 BY MR. SHANAHAN: Now, was this an extended conversation that you had with 5 Mr. Herrington when you were telling him about other 6 people preparing that letter, that you tell us was not true? 8 No, sir, it wasn't. It was not an extended conversation. 9 About how long a conversation would you say this was, 10 that dealt with the letter? 11 Two exchanges from each side. 12 I beg your pardon? 13 Just two exchanges from each side. 14 It would be a short conversation. And then, let me 15 ask you: under such circumstances as this, when you were 16 waiting at the end of a runway for permission to take 17 off, or when you are traveling, is it customary for the 18 pilot and co-pilot to visit back and forth? 19 No, sir. A 20 Was there any other conversation, other than this 2 21 conversation that you had, about the letter, during that 22 flight? 23 No, sir. 24 Nothing at all from the time that you left Binghamton

1 until you got to White Plains? Nothing on the letter. A On any other subject? 2 3 On, yes, there was quite a bit of conversation. 4 A 5 2 General conversation? 6 A Right. 2 And that was not unusual, I take it? 8 No. sir. A Okay. Now, then, if I have followed you correctly, on 9 Q October 3rd, there was a meeting at the Holiday Inn that 10 you arranged in part, at least, would that be right? 11 Yes, sir. 12 A And now, when was that meeting set up? How long before 13 Q 14 the date of the meeting, itself? Oh, it was very short notice. I didn't even start looking 15 for a place until the day before. 16 So that the meeting that you say was held on October 3rd --17 2 (Interrupting) No, October 2nd. 18 A I beg jour pardon? Q 19 The night of October 2nd. 20 And you were the day before, seeking a location to have 21 0 22 the meeting? We had looked for a couple of days before for a location 23 A between all of the pilots, or convenient to all of the 24 25 pilots.

Well, did other people participate in attempting to make the arrangements for a meeting place, peole other than yourself, then? 3 Ira Josephson suggested some places, but as far as actually contacting places, I was the only one that called places and asked what the rates would be and asked if we could have a room. 8 And you located a place, then, say on October 1st, for the meeting of October 2nd? Yes, sir. 10 Would that be right. And then, did I understand you 11 correctly that you were the one who contacted various 12 people and suggested to them that they attend the 13 14 meeting? Yes, sir, I called them and asked them if they would 15 spread the word. 1 And when you say you called them, I assume that you mean 17 18 by telephone? Yes, sir. 19 And were you calling them from Elmira? 20 21 A Yes, sir. And some of the people that you called were stationed 22 Q 23 at Binghamton, were they? Just about all of the people, sir. All or them. Now, how many cople did you call?

A Approximately five or six. And do you recall who it was that you made calls to? Yes, sir, I called Paul Briggs, Paul Sholl, Dennis 3 4 Larimore, and I called -- I can't remember his name. 5 I think it was Mike Baan, and I called the office and 6 I talked to somebody, but I can't remember who it was. 7 I think that I talked to either Solber-8 or Leonard, and I talked to one of the pilots in the office who was there and asked him to spread the word 9 10 around the office. 11 And do I understand, also, that the people that you 12 talked to on the telephone, that you asked to spread 13 the word by word of mouth to the others? 14 Yes, sir. 15 Q And were there any restrictions on the number of persons 16 that you were requesting to attend? Yes, sir, I wanted just the pilots. 17 18 You wanted just the pilots? 0 19 A Yes, sir. And when you used the term'pilots', are you referring 20 21 to both Captains and co-pilots? Oh, this was the co-pilots meeting, but we dien't 22 include the Captains until approximately four o'clock 23

Well, I am trying to find out now: you are telling us

that afternoon before the meeting.

24

that you arranged for a meeting place, and you made 2 some calls? Yes, sir. 3 And do I understand that all of the calls that you made 4 5 by telephone were calls to co-pilots? No, sir, I called a couple of Captains. 6 Well, were you then arranging for a meeting to be 7 Q attended by both co-pilots and Captains? 8 I was attempting to get the particular people that I 9 wanted there; co-pilots and Captains. 10 But you indicate to us, Mr. Slough, that you called five 11 Q or six people? 12 Yes, sir. 13 A And you asked those people to notify others by word 14 Q of mouth? 15 16 Yes, sir. All right. Now let me ask you this: were you endeavoring 17 to get all of the co-pilots to attend that meeting? 13 Yes, sir. 19 A And were you endeavoring to get all of the Captains to 20 Q attend that meeting? 21 No, sir, only certain Captains. 22 Now, how many Captains were you seeking to have attend? 23 All of the Captains except Assistant Chief Pilot and 24 25 Chief Pilot.

	II .	
1	Q	So that would have been all of the Captains but Er. Bell
2		and Mr. Herrington?
3	A	Yes, sir.
4	Q	And would that be correct?
5	A	Yes, sir.
6	Q	So that with the exception of those two people, you
7		wanted all of the pilots and all of the co-pilots?
8	A	Yes, sir, all of the pilots that were available. You
9		see, we had scheduled flights going on and there would
10		be some that you couldn't get.
11	Q	But you were inviting them, nonetheless, and if they
12		were unable to attend, they couldn't get there, was
13		that the idea?
14	A	Yes, sir.
15		THE COURT: How long before you expect
16		to be done with this, Mr. Shanahan? I am not hurrying
17		you.
18		Well, we will recess this because I
19		have another matter.
20		At this time we will adjourn until
21		tomorrow morning at eleven o'clock. Good afternoon, and
22		don't talk about the case.
23		(Whereupon, the proceedings were resumed
24		until eleven o'clock the following morning.)

- 1	
1	UNITED STATES DISTRICT COURT
2	NORTHERN DISTRICT OF NEW YORK
3	X
4	UNITED STATES OF AMERICA, :
5	Plaintiff :
6	-against- :
7	JERRY WINSTON, BROOME COUNTY :
8	AVIATION, INC., COMMUTER AIRLINES, INC., and THEODORE (TED) BELL, :
9	Defendants :
10	X
11	
12	
13	CONTINUATION OF PROCEEDINGS in
14	above-entitled matter, came on before the United
15	States District Court, Northern District of New
16	York, at Auburn, New York, on June 2, 1976, at
17	11:00 a.m., before the Honorable Lloyd F. MacMahon,
18	United States District Judge.
19	
20	AOLUWE II
21	
22	
23	
24	

1	APPEARANCES:
2	
3	The Honorable JAMES M. SULLIVAN, JR.,
4	United States Attorney, Northern District of New York
5	Federal Building, Syracuse, New York, by ARTHUR A.
6	CHALENSKI, ESQ., Assistant United States Attorney,
7	Of Counsel.
8	
9	- and -
10	
11	BECKER, CARD, LEVY & RICHARDS, P.C.,
12	141 Washington Avenue, Endicott, New York 13760,
13	Attorneys for Defendants Jerry Winston, Broome
14	County Aviation, Inc., and Commuter Airlines, Inc.,
15	by RODNEY A. RICHARDS, ESQ., Of Counsel.
16	
17	- and -
1.8	
19	PAUL R. SHANAHAN, ESQ., Syracuse,
20	New York, Attorney for Defendant Theodore (Ted)
21	Bell.
22	
23	
24	

1	THE COURT: Proceed.
2	CROSS EXAMINATION (Continued)
3	BY MR. SHANAHAN:
4	Q Now, Mr. Slough, I would like to go back for just a
5	moment, so that we can pick up the context of this.
6	I think that your testimony yesterday was that Exhibit
7	teenty-three, which was dated September 24th, was the
8	letter that you composed, yourself?
9	A Yes, sir, it was.
10	And placed in the mail receptacles for the various
11	pilots and co-pilots?
12	A Yes, sir.
13	Q Would that be right. I think that you said that
14	thereafter, two days later, September 26th, that you
15	contacted the Teamsters Union in New York City?
16	A Yes, sir, I did.
17	Q And that was by telephone?
18	A Yes, sir.
19	Q And that was your first contact, if any, with a Union
20	organization, was it?
21	A That was the first contact I had with an organization
22	for our outfit. I had called the Executive Jet to find
23	out.
24	Say that again, please, and I didn't get it.
25	A I had called Executive Jet in Columbus, Ohio, previous

1		to this, to find out which Union to call. This was
2		the first call to a Union.
3	9	And this Exhibit twenty-three, this letter that you
4		prepared, I, think that you indicated to us yesterday
5		that you prepared that without any help or cooperation
6		from anyone?
7	A	Yes, sir, I did.
8	Q	And that letter, Exhibit twenty-three, was not signed?
9	A	No, sir, it wasn't.
10	Q	Or was there any indication contained in it as to who
11		prepared it, or who was making it available to the
12		pilots and co-pilots?
13	A	I don't believe so, no.
14	Q	All right. Now, first of all, I would like to call
15		your attention to a portion of that exhibit, and I
16		am calling your attention to the portion of the exhibit
17		that says that at this time, three different unions
18		have expressed interest in our situation.
9		That is part of the exhibit, isn't it?
20	A	Yes, it is.
21	Q	And I think that you have just said to us that
22		September 26th was the first time that you had contacted
3		any union?
4	A	Yes, sir, it was.
5	^	Wall would that statement in the letter then he

1	incorrect?
2	A No, sir, it was another pilot who had already contacted
3	some other unions.
4	Q Wno was that other pilot?
5	A Delbert L. DeLaurentis and his father was an airline
6	pilot.
7	So that the reference that is contained in that exhibit
8	had to do, then, with some contact that Mr. DeLaurenti
9	had arranged?
10	A Yes, sir.
11	Q Previous to September 24th, would that have been correct?
12	A Yes, sir.
13	A les, off
14	letter you had a conversation with Mr. Herrington?
15	A Yes, sir.
16	In the cockpit of a plane, and you were about to depart
17	from the Binghamton area?
18	A That is correct.
19	Q And do you recall when that was, Mr. Slough?
21	A I think it was approximately two days after I put the
2	letter in the mail boxes.
2	So that would have been around the 26th, this same day
2	that you made the telephone call to the Teamsters,
:	was it?
	A Yes, sir.

U.S. COURT REPORTERS

- And am I correct that you told Mr. Herrington that that letter had been prepared by you, by Mr. Josephson, by Mr. DeLaurentis, and another pilot named Gary Leonard?

 A. That is true.

 Would that be correct?

 A Yes, sir.
- And we have already covered the proposition that that information that you gave Mr. Herrington was incorrect?
- A Yes, sir.

11

12

13

14

- Now, let me ask you, when you indicated to him that that letter had, in fact, been prepared by you, Josephson, DeLaurentis, and Leonard, did you have the permission of those men to represent to anyone that they had prepared this letter or assisted in its preparation?
- A I didn't say anything to them previous to doing it, no, sir.
- 17 Q So you were doing it at that time without their authorization?
 - A Yes, just on my own; yes.
- 20 Q Okay. And it is your recollection that that occurred,
 21 that is, that talk with Herrington occurred on or about
 22 September 26th?
- 23 A Yes, sir.
- 24 Q Of 1974?
- 25 A Yes, sir.

1 Q Would that be right. Now, Mr. DeLaurentis, do you know how long he was employed by Commuter Airlines? 2 I am not sure of the date, no, sir. He was there before A 3 I was, and he was there after I left. And do you know how long he was there after you left Q 5 that organization? 6 No, I don't, sir. A 7 What about Gary Leonard? 8 I believe he still is employed with the organization. A 9 He is still employed by Commuter Airlines, would that Q 10 be so? 11 Yes, sir. A 12 All right. Now, then, I think that you have told us 13 about arranging for that meeting at the Holiday Inn. 14 and that Mr. Calder attended? 15 Yes, sir. 16 And your testimony yesterday, at one time was that that 17 meeting took place on October 3rd of 1974, and I believe 18 that at a later time in your testimony you said October 19 the 2nd? 20 I am not sure, but the meeting was the 2nd, and I was 21 fired the 3rd. 22 Did you preface that by saying that you are not sure? 23 I don't remember what was said yesterday about the 24 meeting. I can't remember if I did say the 2nd or the 25

1 3rd, when we were talking about the meeting. Now, are you sure of the date of the meeting? 2 Yes, it was the 2nd. I am pretty sure. 3 Well, are you sure that it was the 2nd or was it, in 4 fact, the 3rd? 5 I believe it was the 2nd. A 6 You believe it was the 2nd. That meeting that took 7 place in the evening of whatever day it was held? 8 Yes, sir. A 9 And did that meeting begin some time around 7 or 7:30 10 in the evening? 11 I think that would be a good estimate, yes, sir. A 12 And about how long a meeting would you say it was? 13 I think some of us, -- I think the last of the people 14 left around 11 o'clock. 15 Well, it was three or three and a half hours, or Q 16 possibly a four-hour meeting, would that be so? 17 Yes, sir. We had a lot of people walking in and out, 18 and I think that the whole thing lasted approximately 19 three and a half or four hours. 20 You indicated to us that in connection with contacting Q 21 pilots, and co-pilots to attend that meeting, you made 22 some effort not to contact either Mr. Bell or Mr. 23 Herrington? 24

I made no effort to contact them.

1 Q You made no effort to contact them. And I think that you indicated that some of the people that you did 2 directly contact, yourself, were asked to spread the 3 word of the meeting? 4 A That is correct, sir. 5 Q And were they cautioned against spreading the word 6 to Bell or to Herrington? A When they talked to me they were. I don't know about 8 anybody else. 9 I see, all right. And I take it that at that meeting Q 10 that neither Mr. Bell or Mr. Herrington were present? 11 No, John Herrington was present. 12 A He was present? 13 Yes, sir. A 14 And do you know where he received the word of the Q 15 meeting? 16 No, sir, I don't. A 17 And do you know what he was engaged in doing on either Q 18 October 3rd or October 2nd, whatever date this meeting 19 occurred? 20 No, sir, I don't. 21 Were you aware of the fact that on October the 3rd, Q he was on a flight, a charter flight, and was away 23 from the Binghamton area until early evening? 24

I imagine so, yes, sir.

1 MR. SHANAHAN: I would like to see Exhibit number two. 2 BY MR. SHANAHAN: 3 Now, Mr. Slough, we have here Exhibit three, which is an application for a representation of the employees 5 at Commuter Airlines, and I call to your attention that 6 this exhibit is signed, apparently, by the president of I.A.B.T.? 8 Yes, sir. A 9 And have you ever had occasion to see that exhibit 10 previously? 11 No, sir, I haven't. I am not sure what it is. 12 Well, it is an application for the necessary procedures 2 13 to be followed to obtain an organization to represent 14 the employees of Commuter Airlines? 15 A Yes. 16 Now, I call to your attention -- first of all, the Q 17 president is a Mr. Garrafa, and was he present at this 18 meeting that was held at the Holiday Inn? 19 I don't even know who he is. 20 You never met whoever that is? Q 21 A No. And I call to your attention that that -- that Q 23 application is dated October the 2nd? 24 Yes. 25

- 1		
1	Q	of 1974?
2	A	Yes, sir.
3	Q	And would that refresh your recollection that the
4		meeting was held then, October 2nd, or wouldn't that
5		aid you in any way?
6	A	I don't know that that has anything to do with the
7		meeting.
8	Q	All right. But the meeting that was held at the
9		Holiday Inn was the first meeting at which Mr. Calder
10		was present?
11	A	Yes, sir.
12	Q	Okay. Now, there was an occa ion, was there not,
13		Mr. Slough, when you were interviewed by an agent of
14		the Federal Bureau of Investigation?
15	A	Yes, some time ago.
16	Q	And would that have been a man named Harold D. Thomas,
17		an F.B.I. agent?
18	A	I can't recall the name. I don't remember who inter-
19		viewed me.
20	9	Well, do you recall that that interview took place
21		on or about April 25th of 1975?
22	A	I believe that that is I think so.
~~	Q	And did that interview deal with the same matters that
24		you are testifying to here?
25	A	Yes, sir.

All right. Now, and didit also relate to this meeting Q 1 at the Holiday Inn, at Binghamton, among other things? 2 Yes, sir, I believe it did. A 3 Now, do you recall telling Mr. Thomas, at that time, Q 4 that this meeting at the Holiday Inn took place on 5 October 3rd of 1974? 6 I don't remember what I told him, sir. A 7 You haven't any recollection on that subject at all? Q 8 I remember talking to him. I can't remember the exact A 3 dates. It has been a little bit too long. 10 Is it fair to say that you are not sure of that date, 11 October 2nd or October 3rd? 12 I am quite sure it was October 2nd, but I may have said A 13 the 3rd in the past. 14 You may have said the 3rd in the past? Q 15 Yes, sir. A 16 Well, have you examined various documents in this 17 matter that indicates to you that you did, in fact, 18 say October 3rd in the past? 19 I don't have any documents at all concerning this A 20 matter. 21 Well, before taking the witness stand here, did you 22 review, for instance, your Grand Jury testimony, or 23 any letters that you may have written? 24 Yes, sir, I did. 25

1	And you are aware, then, I take it, that some of those
2	documents indicate that that meeting was October the
3	3ra?
4	A Yes, sir.
5	MR. SHANAHAN: May I have this marked.
6	THE CLERK: Defendant's Exhibit B,
7	marked for identification.
8	(Document marked Defendant's Exhibit
9	B for identification.)
10	BY MR. SHANAHAN:
11	Now, I am showing you Defendant's Exhibit B for
12	identification, Mr. Slough, and the top two sheets
13	(offering)?
14	A Yes.
15	Apparently, they are a report of this interview that
16	Mr. Thomas had with you on or about April 25th of
17	1975, and I call to your attention the last paragraph
18	on the first page, which deals with that meeting at the
19	Holiday Inn?
20	A Do you want me to read it, sir?
21	Q No, I would like you to read it to yourself.
22	A Okay, sir.
23	Yes, sir.
24	Q Now, does that refresh your recollection as to the dat
25	of that meeting at the Holiday Inn?

I think it was on the 2nd. I made a mistake when I told 1 A nim it was on the 3rd. 2 All right. Now, as part of Exhibit B, there appears 3 to be a copy ' a letter dated November 4, of 1974, 4 addressed to the National Mediation Board at Washington, 5 D.C. and it bears a signature, and do you recognize 6 that? 7 That is my signature. A 8 And it is your signature, all right. Q 9 In that letter, do you say, 'On October 10 3, 1974, the employees of Commuter Airlines held a 11 meeting to discuss union representation with Mr. Alex Calder of the Airline Employees Union'? 13 Yes, sir, I did. A 14 Now, that letter was written November 4th of 1974, 15 correct? 16 Yes, sir. A 17 And you fixed the date of the meeting in that letter Q 18 as October the 3rd of 1974? 19 Would you repeat that again? Was it October 4th? Did A 20 you say October 4th? 21 If I did, I misspoke. The letter was written November Q 22 4th of 1974, correct? 23 Yes. A 24 And in that letter of November the 4th, you indicated

1		that this meeting at which Mr. Calder was present, took
2		place on October the 3rd of 1974?
3	A	Yes, sir.
4	Q	And this letter was written a day over a month after
5		the happening of the meeting?
6	A	Right.
7	Q	And I take it at a time when your recollection was more
8		fresh on the subject of dates, than it is at the present
9		time, would that be correct?
10	A	Yes, sir.
11	Q	Well, now: after looking at these papers, would it be
12		your best recollection that that meeting, in fact, was
13		held on Octo'er 3rd, rather than October 2nd?
14	A	It was ald on October 2nd. I made a mistake when I
15		was talking about the meeting.
16	Q	You made a mistake in this letter
17	A	(Interrupting) In my mind it was the 3rd, but it was
18	1	the 2nd.
19	4	When you say you made a mistake, are you telling us
20		that you made a mistake in the letter of November 4th,
21		1974?
22	A	For some reason in my mind I thought it was the 3rd,
23		but each one has it a previous date.
24	1	Now, what did you say?
25	Δ	When I checked the records.

- 1		
1	Q	What records?
2	A	I paid for the motel room at Vestal with my Gulf Travel
3		Card or my Hobil Travel Card.
4	Q	And do you have that with you?
5	A	No, sir, I don't.
6	Q	Is it here in Auburn and available?
7	A	No, it isn't here. I imagine I can get a record from
8		Gulf.
9	Q	That would take some time. When did you check the
10		record to ascertain what you tell us is the correct
11		date?
12	A	Mr. Calier told me that that was the correct date.
13	Q	Mr. Calder told you that?
14	A	Yes.
15	Q	I see. And there is no question but you were discharge
16		on October the 3rd?
17	A	Then, the meeting was on the 2nd.
18	Q	Would you just answer my questions, please?
19	A	Yes, sir.
20	Q	Is there any question at all in your aind but what you
21		were, in fact, discharged on October the 3rd?
22	A	No, sir, I believe I was discharged on the 3rd, right.
23	9	And did your discharge take place in the morning of that
24		day?
25	A	Yes, sir.

1 So that if you were discharged on October the 3rd. and if, by any chance, the meeting took place on October the 3rd, the meeting would have taken place 3 4 after your discharge, wouldn't that be correct? 5 .t would be, yes. A But Mr. Calder told you that this meeting took place 6 0 on October 2nd? When did you have the conversation with 8 him in which he told you that? Apparently I was making this mistake all along, and --9 (Interrupting) I am not asking you about making the 10 Q mistake. Please listen to my question. I am asking 11 you when you had the conversation with Mr. Calder in 12 which you say Mr. Calder said the meeting, in fact, 13 occurred on October 2nd? When did you have the conver-14 15 sation with him? I don't recall the exact time. 16 A was it in the last day or so? 17 On, no, sir. It was way back when we had the indcitment 18 A proceedings. 19 Way back -- would that have been about a year ago, then? 20 No, it was right nere, I believe it was. I think so. 21 À I didn't ask you where. Would it have been about a 22 2 23 year ago? I can't say for sure. 24 A I see. Well, had you, up to that time, been under the 25

1		impression that the meeting, in fact, was held on
2		October 3rd; the evening of October 3rd?
3	A	I guess so.
4	Q	Now, in your interview with the F.B.I. agent, and in
5		your letter, the one that I call to your attention,
6		of November 4th, you had no reason at all to misrepre-
7		sent the date of that Holiday Inn meeting, did you?
8	A	No, sir, I still don't.
9	Q	Now, you tell us that on October the 3rd, in the fore-
10		noon of that day, that you were discharged by Mr. Bell?
11	A	Yes, sir.
12	Q	Would that be so. And you have already indicated to us
13		that you were, at that time, working out of Elmira?
14	A	Yes, sir.
15	Q	And on the morning that you were discharged, that you
16		traveled from Elmira to Binghamton?
17	A	Yes, sir, I did.
18	Q	And did your conversation with Mr. Bell take place at
19		the Broome County Airport then, at Binghamton?
20	A	Yes, sir.
21	Q	And did it occur at about nine in the morning?
22	A	Yes, sir.
23	c	Now, at that time you told us Mr. Bell said to you,
24		in substance, that you were discharged?
25	A	Yes. sir.

1 And what further did Mr. Bell say to you in connection Q 2 with this discharge? That he questioned my ability as a pilot, and didn't 3 A think --(Interrupting) What did he say, please? 5 2 He felt that he had given me more than ample chance 6 to prove myself and didn't think that I had proved myself as a competent pilot. 8 What? Q 9 That he had given me more than an ample chance or amount 10 A of time to prove myself as a competent pilot, and that 11 12 I had not done that. That you had not done that? Q 13 Right. 14 And what else? 15 That I had a poor attitude. A 16 That you had a poor attitude? 17 Right. 18 A And anything further? 19 Q That whenever he tried to find me he couldn't reach me 20 A when he wanted to. I had a poor attitude and didn't 21 pay attention to my work. 22 So that he said that there was a problem about availability? 23 Q 24 Yes, sir. A And would that be so? 25 Q

1	A	Yes, sir.
2	Q	And did he point out to you in that conversation any
3		instances of what he claimed at least, was your unavail-
4		ability?
5	A	I believe that there were two.
6	Q	I beg your pardon?
7	A	I think that there were two instances.
8	a	Two instances?
9	A	Yes, sir.
10	Q	And was one of those two instances that was mentioned
11		yesterday some time in July of 1974 when you were in
12		Rochester?
12	A	Yes, sir, it was.
14	Q	And that was an occasion when you were supposed to be
15		on call, would that be true?
16	A	No, sir.
17	9	You mean you were not on call at that time? Let me
18		withdraw that for a second, so that the jury can follow
19		us here.
20		There are clarifications well, there
21		were occasions during your employment with Commuter
22		Airlines when you might not be assigned to a linght,
23		but when you were requested to be available and on
24	-	call?

25

Yes, sir.

1 Q would that be right? 2 A Yes, sir. And that was not an unusual procedure, was it? 3 Q 4 A No, sir, I don't believe so. 5 0 And that meant that you were on notice with the Commuter office where you could be located during the 6 periods that you were supposed to be on call? 8 Yes, sir. Q And would that be right? 10 Yes, sir. A 11 Now, on this occasion in June of 1974, I think that you 12 told us yesterday that you were, in fact, in R chester? 13 A Yes, sir, I was. 14 And that you had not notified the company where you 15 were? 16 NO, sir, I told Vicky -- I told one of the girls in A 17 the office. 18 2 You told one of the girls in the office. Well, did 19 you later learn that an effort was made to contact 20 you and the company was unable to do it? 2 Yes, sir, I did. 22 Q And I think that you said that you were in Rochester 23 on that occasion in connection with some eye doctor 24 appointment?

Yes, sir.

25

A

- Now, you indicated to us that there was still a second occasion that Mr. Bell called to your attention, relating to unavailability?

 Yes, sir.

 And what instance was that, if you could recall it,
- please?

 A I believe that it was in September -- yes, about Septem-
- A I believe that it was in September -- yes, about September of 1974.
- 9 Q And what was there to that particular situation?
- 10 A They tried to contact me -- I believe in mid afternoon,
 11 and I was in Rochester.
- I see. And so that you were not available for their reaching you?
- 14 A No, sir, I wasn't.
- Would that be so. And was that a time when you were supposed to be available?
- 17 A Yes, sir.

- And so that when you were not available, at the time
 that you were supposed to be available, that, of course,
 was a violation of the company rules, would that be it?
- 21 A I didn't know I was on call at the time.
- 22 | Q You didn't know what?
- 23 A I had two different bosses, and one let me go, and one 24 thought I should be there.
 - Q Well, I don't quite follow you. You say that you were

1 supposed to be on call and you didn't advise them that you were going to Rochester? 2 I advised Don Reed, who was my Chief Pilot in Elmira 3 that I was going to Rochester, and he thought it would 4 be okay. I didn't contact Mr. Bell. 5 Now, this man that you say you did contact thought it 6 2 would be all right and who was he? He was the Chief Pilot in Elmira, or Head Pilot in 8 A Elmira. He was a Captain. 9 There is no Chief, such as a Chief Pilot in Elmira? 10 I was told he was. A 11 By whom? 0 12 A By nim. 13 By him. Was he a pilot or a co-pilot? 14 He was a Captain. 15 And he would be classified as a pilot, then? 16 A Yes, sir. 17 Now, was that the time that you went to the eye doctor, 18 or was the occasion that you went to the eye doctor 19 the occasion back in June of 1974? 20 I went to the eye doctor both times. 21 Both times? Q Yes, sir. 23 A I see. Now, while we are on that subject, let me 24 complete that, if I may. 25

1		You tell us, Mr. Slough, that on these
2		two occasions when this question of your unavailability
3		came up that you were at Rochester with an eye doctor,
4		is that right?
5	A	Yes, sir.
6	Q	Now, there came a time, did there not, when you testified
7		before the Grand Jury in this matter?
8	A	Yes, there was.
9	Q	And did that occur back in June or July of 1975,
10		a year ago, approximately?
11	A	Approximately, yes.
12	Q	Here in this building?
13	A	Yes.
14	Q	And did you, at that time, when you were asked these
15		questions, and did you give these answers on page 18
16		well, I will have to start a little ahead so that you
17		can get the continuity of this.
18		You were questioned by a juror, a Grand
19		Juror, apparently.
20		'Question: Did you ever have a dispute
21		with this man that you said was in the office and left?'
22		'Answer: Jerry Winston?'
23		'Question: Yes.'
24		'Answer: He was the president of the
25		company. I never had an open dispute before I was called

1 to the office.' 'Question: Because he said your attitude 2 was bad? 1 3 'Answer: Yes. They referred back to 4 one instance where I had a dentist's appointment. I 5 had it three different times. Three times I made an 6 appointment and three times I had to change it. The 7 dentist had charged me fifteen dollars for not showing 8 up. I made it on Wednesday morning and they brought 9 this as an instance of it.' 10 Yes, sir. A 11 Were you asked those questions and did you give those 12 answers? 13 No. sir. A 14 You did not give those answers? Q 15 I just saw the transcript a hile back and when they 16 told me, I said it wasn't an appointment and that is not 17 what I said. 18 I assume that you would have read this over? Q 19 Well --20 (Interrupting) So that what you are saying to us now Q 21 is that you did not say, on that occasion, that your 22 reasons for being in Rochester was a dental appointment? 23 I didn't say dentist, no, sir. 24

You said an eye doctor?

	A	I said an opthalmologist.
1	Q	And it is your position that the stenographer made
2	•	a mistake in transcribing your testimony?
3		
4	A	Yes, sir.
5	Q	All right. Now, did you notice that mistake?
6	A	I did just a couple of days ago.
7	Q	A couple of days ago?
8	A	Well, yesterday I believe; yesterday morning.
9	Q	And whose attention did you call it to at that time?
10	A	To the F.B.I. agent.
11	Q	And he told you that that didn't make any difference?
12	A	Yes, ne is here right now
13	9	(Interrupting) I don't care whether he is here but he
14		told you that it wouldn't make any difference?
15	Á	He didn't think it was important.
16	Q	Did you tell anything else about it at that time?
17	A	No, sir.
18	Q	All right. Now, you are telling us that Mr. Bell, on
19		this occasion, that he told you that you were discharged
20		had said to you, if I understand you correctly, that
21		your attitude was bad; that there was this problem that
22		we have discussed up to this point about your unavail-
23		ability?
24	A	Yes, sir.
25	Q	And what else, if anything, did he say to you in

	II	
1		connection with your discharge?
2	A	As far as reasons for discharge?
3	Q	What he said to you, is the question.
4	A	Well, I was there quite a while. He thought that he
5		had given me sufficient chances. He thought he had
6		been more than fair with me, and we mostly had an
7		argument.
8		I beg your pardon?
9	A	It mostly was an argument.
10	a a	
11	*	Have you told us what he said to you in the first
		instance in connection with this discharge here?
12	A	No, not all of it. But we argued after that.
13	9	Well, didn't you tell us in your direct examination that
14		ne told you that certain Captains
15	À	(Interrupting) Yes, sir. He said that Don Reed on my
16		flights questioned my ability as a pilot, and thought
17		that I wasn't quite as competent as I could be.
18	Q	Now, what were those names again, please?
19	A	Captain Don Reed, and Michael Kleitz.
20	Q	Reed and Kleitz?
21	A	Yes, sir.
22	a	Were those two gentlemen, at this time, Captains?
23	A	Yes, sir.
24	Q	And were they Captains with whom you had flown?
25	A	Yes, sir.
	4	

1 Q On various occasions? Yes, sir. A 2 And in connection with your flying as a co-pilot, with Q 3 the Captain, are there times when you take over the operation of the airplane, itself? 5 Some Captains, you do, and some you don't. A 6 I see. Well, it is a fairly common practice that the Q Captain flies what they call a first leg of the flight, 8 and the co-pilot flies or is permitted to fly the 9 second leg of the flight? 10 Quite often. A 11 And that would be the pilot would fly going out to 12 whatever the destination was? 13 Yes, sir. A 14 And the co-pilot would fly coming back, is that it? 15 Yes, sir. 16 And his flying, the co-pilot's flying would be under 17 the supervision of the Captain? 18 Yes, sir. 19 Who would remain in the cockpit of the airplane during Q 20 the co-pilot's operation of the plane? 21 Right, yes, sir. A 22 And would that be right? Q 23 Yes, sir. A 24 Now, Mr. Reed, and Mr. Kleitz, you have told us were Q 25

1 Captains? 2 Yes, sir. Q 3 Is that Reed, R-E-E-L or R-E-E-V-E? A It is Donald Reeve, R-E-E-V-E? And were they men that you had flown with? 5 2 A 6 Yes, sir. 2 On previous occasions? 8 À Yes, sir. And so if I understand it correctly, Mr. Bell told you 9 that those two gentlemen questioned your flying ability? 10 A Yes, sir. 11 12 would that be so? A That would be correct. 13 And both of those then were men with whom you had flown, 14 15 and under whose direction you had operated the plane, yourself? 16 17 A Yes, sir. 18 And let me ask you: Were these, at that time, passenger flights? 19 Yes, passenger flights. I believe that I had a passenger 20 with both of them. 21 0 Both of them? 22 I had been on mail with Don Reeve one night too. 23 Now, would you go on now and tell us what further was 24 Q said to you, what further conversation there was, at 25

1		the time that you were discharged?
2	A	I told Mr. Bell I thought I was being discharged for
3		the union organization attempts, and
4	Q	(Interrupting) What did he say, if anything, in response
5		to that?
6	A	He told me he knew nothing of any union meeting or
7		nothing about the letter that DeLaurentis well,
8		anything about circulating around the company, and
9		he didn't care about it and didn't have anything to do
10		with it.
11	Q	I had trouble with your answer.
12		(The previous answer was read by the
13		Reporter.)
14	Q	And was anything further said at that time?
15	A	I told him that I thought he did, because I thought
16		it was common knowledge among all of the pilots.
17	Q	Just what you said, now.
18	A	I told him that I thought he was a liar because I
19		felt it was common knowledge, and he said that if Ira
20		Josephson and DeLaurentis, well, Josephson and
21		DeLaurentis and I wrote a letter and wanted to circulate
22		it, he didn't know anything about it and didn't have
23		anything to do with it.
24	Q	So that he gave you these reasons that you earlier told
25	1	us, and he told you that any union activity that you

1		might have been engaged in had nothing to do with it?
2	A	Yes, sir.
3	Q	And what further was said at that conversation, now?
4	A	We didn't talk to each other anymore.
5	Q	I beg your pardon?
6	A	We didn't talk to each other anymore.
7	Q	All right. So that the suggestion that you were
8		discharged because of union activity was your inter-
9		pretation, would that be right?
10	A	Yes, it was.
11	Q	And it was a suggestion that Mr. Bell said was not true?
12	A	Yes, sir.
13	Q	Now, following this conversation with Mr. Bell no
14		question about whether that occurred on October 3rd?
15	A	Yes, sir.
16	Q	And no question in your mind at all on that?
17	A	No, sir.
18	Q	After that conversation, then, with Mr. Bell on October
19		the 3rd, as I understand it, you returned to Elmira?
20	A	Yes, sir.
21	Q	And you thereafter performed all well, you did no
22		more work for Commuter Airlines?
23	A	I went directly to Rochester, New York.
24	Q	And that terminated your employment, would that be
25		right?

- A I flew back home that afternoon to Elmira.
- 2 But in any event, after you got back to Elmira that
- afternoon, then you no longer were we king for
- 4 | Commuter Airlines?
- 5 A No, sir.
- 6 Now, there came a time, did there not, when you made
- an application to the National Mediation Board for
- a ballot to vote in this election?
- 9 A Yes, sir.
- 10 Q And showing you again, Exhibit B for identification,
- do you recognize, what I think is the third sheet of
- that Exhibit, and that is a photostatic copy of that
- 13 request?
- 14 A Yes, sir, it is.
- 15 Q That request is dated November 3 of 1974, correct?
- 16 A Right, yes, sir.
- 17 And that a month after your work and employment
- 18 terminated?
- 19 A Yes, sir.
- 20 And you stated in that request, 'I am an employee of
- 21 Commuter Airlines'?
- 22 A Yes, sir.
- 23 Q Did you not?
- 24 A Yes, sir.
- 25 Q And that was not, in fact, true at that time, was it?

1	A	I was directed to do that.
2	Q	You were directed to that by whom?
3	A	By the union lawyer. We were questioning the fact that
4		I was fired illegally for union activity, and still
5		held the right to vote.
6	Q	Now, let me ask you: In connection with your with
7		your discharge that you told us occurred on Cotober 3rd,
8		did make some application for reinstatement somewhere?
9	A	To Commuter Airlines?
10	a	I beg your pardon? Did you make an application for a
11		reinstatement? Did you make an application for a Labor
12		Relations Board, or any such organization?
13	A	I don't recall I don't recall one.
14	Q	You don't recall doing any such thing. Is there any
15		proceedings that you have started on your own to be
16		reinstated
17	A	(Interrupting) No, no, sir. I just followed the union
18		instructions.
19	Q	I beg your pardon?
20	A	I just followed the union instructions.
21	Q	That doesn't mean very much to us. I am just trying
22		to find out: Did you file an application with any
23		Governmental agency to be reinstated in the position
24		that you held with Commuter Airlines?
25	А	I didn't file anything in my own myself, no, sir.

Q	And so I take it, then, so far as you are concerned,
	there is no such proceedings pending?
A	I don't know of any.
Q	There never was any such proceedings that you were
	aware of, at least, would that be correct?
A	No, sir.
Q	In connection with your examination your Grand Jury
	testimony, did you come upon the part of it that dealt
	with who the Captains were that had complained about
	your lack of proficiency?
A	Yes, sir.
Q	And in the Grand Jury testimony those names were given
	as Kleitz and Reeve?
A	Yes, sir.
9	And one of the Captains was Reeve, R-E-E-V-E?
A	Well, I believe it was did you say Reed, R-E-E-D?
Q	Well, in here it is Reed, R-E-E-D.
A	Yes, sir.
Q	And there is no such pilot as R-E-E-D?
A	No, sir.
Q	And that is misspelled?
A	It is R-E-E-V-E, yes, sir.
Q	And there is no pilot by the name of K-I-T-E?
A	No, sir.
Q	But there is a pilot by the name of
	A Q A Q A Q A Q A Q A

1 A (Interrupting) Kleitz. 2 You mean Kleitz, all right. 3 Now, I don't know whether I asked you: 4 You did vote, did you not, in this election? You did 5 cast a ballot? 6 No. sir. A You did not? 2 8 No, sir, I never received a ballot. A 9 Well, let me ask you this: Part of Exhibit eleven would 10 appear to be the request for the ballot? 11 A Yes, sir. 12 Would that be right? Yes, sir. I requested a ballot. 13 14 But you never -- they enver sent you one? 15 wo, sir. A And did you make any inquiry further as to why you 16 17 never received one? Yes, sir. The National Mediation Board told me I would 18 A have to have a court give me the right to get a 19 ballot because I had been fired prior to the voting. 20 21 Q I see. One further thing I want to ask you, 22 23 Mr. Slough? 24 Yes, sir.

You were employed by Commuter, I think that you told

25

Q

1 us, on May the 12th of 1974, correct? Yes, sir. 2 Q And discharged, as you just covered here, on October the 3 3rd of 1974? A Yes, sir. 5 So that you were employed there about five months? About six months. A 7 6 Six months? 8 A Yes, sir. From May to October, all right. Now, let me ask you: 10 At the time of your employment, were you informed at 11 that time that you were employed that a certain portion 12 of your first employment would be considered as pro-13 bationary? 14 I believe I was, but I can't remember the length of 15 time. There was a probationary period but I don't 16 remember the length of it. 17 Q So that at the time that you were employed in connection 18 with whatever interview you had with the people in 19 charge of Commuter Airlines, you were told that the 20 first portion of your employment would be probationary? 21 I believe Mr. Bell told me that. 22 A Q Mr. Bell. And as I understand your testimony, you can't 23 recall the period of time that was supposed to be 24 probationary? 25

1	A	I believe it was six months or a year. I am not sure.
2		It was one or the other.
3	Q	But there is no question, is there, but what your
4		discharge was within the probationary period?
5	A	I believe so, yes.
6		MR. SHANAHAN: I think that that is all.
7		THE COURT: Any re-direct?
8		RE-DIRECT EXAMINATION
9	BY	MR. CHALENSKI:
10	ચ	Mr. Slough, you just testified that on the day that
11		you were fired by Mr. Bell, he told you that he wasn't
12		concerned about a union meeting or about the letter
13		written by Mr. DeLaurentis, Josephson and Gary and who
14		was Gary?
15	A	Gary Leonard is my other roommate.
16	ୡ	Is he a co-pilot with the company?
17	A	Yes.
18	ચ	And they in fact, had not written that letter?
19	A	Sir?
20	Q	They had not written that letter?
21	A	No, sir, I had written the letter, myself.
22	Q	And had you told anybody that those three persons
23		had written the letter?
24	A	Just John Herrington, sir.
25	9	Anybody else?

- 11		
1	A	No, sir.
2	Q	ANd you testified that John Herrington was at the
3		meeting the previous night?
4	A	Yes, sir.
5	Q	Now, your appointment in Rochester with the eye doctor,
6		can you explain the relationship of a visit to an eye
7		doctor with your flying?
8	À	Yes, sir, I have a waiver on my medical license.
9	¥	Could you explain the relationship of the eye doctor
10		to your flying?
11	A	Yes, sir. I have a waiver on my medical certificate
12		that allows me to fly wearing contact lenses, and you
13		have to be checked periodically to carry this, or to
14		have this wiaver or right to fly with glasses.
15	Q	Now, when you were at the eye doctor in September of
16		1974, did you tell anyone in your Commuter Airlines that
17		you were going to the eye doctor?
18	A	Yes, sir, I told my two roommates that I had to get up
19		to the eye doctor, and Don Reeve.
20	Q	The Captain in Elmira?
21	A	Yes.
22	Q	And Don Reeve was the person that you understood to be
23		in charge of the Elmira operation?
24	A	Yes, sir.

25

Did you tell that to Mr. Bell at the time that you were

1		fired?
2	A	I don't think I dia.
3	Q	Now, the schedule change on October 30th, 1974, did
4		Mr. Bell mention that to you at the time that you
5		were fired?
6	A	No, sir. I think that he just said I had been unavail-
7		able, and I don't think that he mentioned the schedule
8		change.
9	ବ	And Mr. Richards asked you about that scheduled change
10		on cross examination?
11	A	Yes, sir.
12	ચ	And would you explain what happened regarding that
13		schedule change on on September 30th of 1974?
14	A	Well, I had talked to DeLaurentis, I had flown the
15		night before, and I wasn't on schedule in the morning.
16		So Friday afternoon I wanted to get to the eye doctor,
17		and I asked he and Gary if they would cover me, and
18		I asked Don Reeve if it was okay, and he thought it would
19		be okay because they had two co-pilots there, and they
20		only had two flights scheduled. After I was gone, they
21		scheduled a third flight, a charter flight.
22	Q	There was an additional situation in September, I
23		believe September 30th, 1974, where you were at the
24		ticket counter?

Yes, sir.

- 11		
1	Q	And a pilot was called in for a flight?
2	Α	Yes, sir. I called Binghamton, the Home Office, for
3		a Captain and an airplane because the Captain hadn't
4		made a flight.
5	Q	At the time that that aircraft was ready to take off
6		from Elmira, were there more passengers ready to take
7		the plane than the plane could hold?
8	A	There was one more.
9	Q	How did that happen?
10	A	Mr. Bell let a passenger on the airplane that hadn't
11		checked in at the ticket counter and did not have a
12		boarding pass.
13		MR. RICHARDS: I am sorry?
14		(The previous answer was read by the
15		Reporter.)
16	YE	MR. CHALENSKI:
17	Q	Now, during the course of preparing for that flight,
18		where were you stationed?
19	A	At the far end of the airport, at the ticket counter.
20	9	Any place else?
21	A	I was in the Coffee Shop working up passengers, and
22		screening the passengers to check through the baggage
23		claim, and go through the machine.
24	Q	At the ticket counter is it the customary practice
25	1	for a passenger to report first to the ticket counter

1 and you prepare a boarding pass? 2 Yes, sir, that is correct. 3 0 And then the passenger goes to the Boarding Gate? 4 Α Yes, sir. 5 And presents the boarding pass, and the ticket stub 0 6 to the person at the gate, and then boards the plane? Yes, sir. À 8 And did any passenger fail to follow that routine on 9 that day of Septmber 30th, yes, sir, one passenger did. With reference to cleaning planes, Mr. Slough, was it 10 part of your responsibility as co-pilot at Commuter 11 Airlines and Broome County Aviation, to clean planes? 12 They were assigned to come co-pilots, yes, sir. 13 A 0 Was any plane assigned to you? 14 I never was assigned a particular plane to clean, no, 15 16 sir. Mr. Slough, you were fired by Theodore Bell? 17 Yes, sir. 18 A And you asked Mr. Bell for some written reasons as to 19 why you were fired, and what did Mr. Bell do at that 20 time? 21 He said at this time he could give me nothing. in 22 23 writing. Did he leave the room? 24 0 Yes, sir, he did. 25 A

1 0 And did he tell you for what purpose? 2 A He told me he was going to ask Wr. Winston about it. 3 And did he come back? He came back and told me that Mr. Wilston said that 5 no, they could give me nothing in writing. 6 0 With reference to the meeting at which Alexander Calder 7 spoke, do you recall which day of the week it was? 8 October 2nd, 1974. A 0 No, what day? Was it a Saturday or a Sunday? 10 No, I don't. It was the beginning of the week. A 11 How do you arrive at the date of that meeting? 12 A Excuse me? 13 How did you arrive at what date that meeting was held? Q 14 A Because I was fired on October 3rd, and the meeting was 15 the night before. 16 And whatever date you were fired, that meeting was the 6 17 night before? 18 A Definitely. 19 Mr. Slough, in Exhibit B, a portion of which was read Q 20 to you, did you also make this statement at the same 21 time to special agent Harold Thomas of the F.B.I.: 22 'Slough advised that on October 4, 1974, the following morning after the meeting, he, Josephson, and Baan were 23 24 all fired'? Yes, sir, I thought I was fired on the 4th, then, too. 25 A

1	Q	And on your letter of November 4, 1974, to the National
2		Mediation Board, did you make this statement:
3		'The next morning, October 4, 1974, I
4		was called into the Chief Filot's office and the Chief
5		Pilot, Ted Bell, told me that I was being dismissed
6		for many reasons'?
7	A	Yes, sir, I did.
8	a	During cross examination by Mr. Richards, a reference
9		was made to the complaints regarding counter duty?
10	A	Yes, sir.
11	Q	Did you complain to anybody about the counter duty
12		that you had to perform as a co-pilot of Commuter
13		Airlines and Broome County Aviation?
14	A	It was something that I talked about with some of the
15		co-pilots, yes.
16	Q	And did you make any statements to any secretarial
17		help or clerical help?
18	A	No, sir.
19	Q	And did you make any complaints about counter duty to
20		any passengers?
21	A	Yes, sir.
22	Q	Now, you lied to Mr. Herrington about three other co-
23		pilots at Commuter Airlines?
24	A	Yes, sir, I did.
25	9	Regarding that September 24th letter, and why did you

1 lie? 2 Because I had reason --3 MR. SHANAHAN: (Interrupting) I object 4 to that. 5 THE COURT: Yes, sustained. 6 BY MR. CHALENSKI: Can you tell the jury what the rating schemes are for 8 pilots progressing up through pilots on airlines, for 9 ratings? 10 A Yes, sir. You start as a private pilot, which means 11 that you can fly for your own pleasure but not for 12 money or hire or any compensation, other than the cost 13 of the trip. 14 Then you become a commerical pilot after 15 200 hours, if you can pass another oral test, and a 16 flight test and a written test. That allows you to fly 17 for hire, but only in very favorable conditions, or good 18 weather conditions. To fly in bad weather, you have to 19 get an additional instrument license that allows 20 training in adverse weather conditions, and underneath 21 a hood that doesn't allow you to look out of the air-22 planes, and then a flight check, and an oral check, 23 and a written test. 24 Then you can advance to a multi-engine

license, which allows you to fly larger aircraft with

1		more than one engine. As I said, that involved an oral
2		test and a flight test.
3		Then, after you have acquired 1500 hours
4		of flying experience and instrument time, multi-engine
5		time, and in all categories you are allowed to try for
6		your airplane transport license, which is the highest
7		that you can go.
8	Q	There are no higher ratings among pilots than the airline
9		transport rating?
10	Α	No, sir.
11	Q	And the pilot license, is it fair to say that it requires
12		35 to 40 hours of flight time?
13	A	Yes, sir. It did then.
14	Q	And you get your commercial license with 200 total
15		nours of flight time?
16	A	Approximately, yes.
17	Q	And your instrument rating with the 200 hours of fly
18		time?
19	A	Excuse me?
20	a	Your instrument rating with the 200 total hours of
21		flying time?
22	A	Yes, sir.
23	Q	But the airplane transport rating requires 1500 hours?
24	A	A minimum, yes, sir.
25	Q	And when did you get your airline transport rating?

A	Approximately four years after I started flying.
Q	And what date?
A	I can't remember the exact day.
Q	Do you recall the day, in relation to your being fired
	from Commuter?
A	It was approximately a month or a month and a half
	afterwards.
	MR. CHALENSKI: That is all of the
	questions that I have of Mr. Slough, thank you.
	RE-CROSS EXAMINATION
ВУ	MR. SHANAHAN:
Q	Did you tell us that on this occasion, in Elmira, when
	there too many passengers for a plane that was brought
	over from Binghamton
A	Yes, sir.
Q	and let me ask you first of all, the plane that came
	over could accomodate nine passengers?
A	Yes, sir.
Q	And there were ten passengers there to take that flight
A	Yes, sir.
Q	And you were the one who called for the airplane to be
	sent over?
A	Yes, sir.
Q	Now, you say that one of the passengers went to the
	plane without a boarding pass?
	Q A Q A Q A Q A Q A Q A

- A Yes, sir.
- 2 Q And did he have a ticket?
- 3 A Yes, sir, he did.
- And had the ticket been issued at the counter there at
- 5 Elmira?
- 6 A Yes, it had.
- And had you issued the ticket?
- 8 A No, I hadn't.
- 9 Q Well, at the time of the issuance of tickets, isn't
- there a portion of the ticket that is retained at the
- 11 desk?
- 12 A The person's name was on the manifest, but -- well,
- she never came to the desk to check in for the flight.
- I had no idea she was there.
- Was it apparent to you when you notified Elmira, or
- Binghamton, rather, that there were nine --
- 17 A (Interrupting) I think --
- 18 Q (Interrupting) Just a minute. Let me finish my
- question. When you notified Elmira that there were
- nine passengers that could be accommodated by a certain
- 21 type of plane, were you aware that there were ten
- 22 tickets outstanding for that flight?
- 23 A No, sir.
- 24 Q Well, was the ticket, or a portion of the ticket of
- 25 this passenger that you say had no boarding pass, was

- 1		
1		that ticket there at the coutner at Elmira?
2	A	No, sir.
3	à	Well, it would be impossible, in any event, to fit
4		ten people into a nine passenger plane, do you agree
5		to that?
6	A	Yes, sir, it would.
7	Q	And at that point, as a result of your call, the plane
8		that arrived was not large enough to accomodate the
9		passengers that were there?
10	A	That is correct.
11	Q	you employed at the present time by some airline?
12	A	No, sir, I am ot.
13	Q	And have you seen employed by any airlines since October
14		the 3rd of 1974?
15	A	Not an airline. A private corporation.
16		MR. SHANAHAN: That is all.
17		MR. CHALENSKI: I have one question.
18		RE-DIRECT EXAMINATION
19	BY	MR. CHALENSKI:
20	Q	At the time that you did call Binghamton to have this
21		plane sent to Elmira, how many passengers were available
22	A	I think I had approximately four or five.
23	Q	And it was after you called that additional passengers
24		came?
25	A	There was forty-five minutes between yes, sir, there

1	was forty-five minutes between the time I called and
2	the plane arrived.
3	MR. CHALENSKI: I have no further
4	questions.
5	THE COURT: You are excused.
6	(Whereupon the witness was excused.)
-7	MR. CHALENSKI: The Government calls
8	Ira Josephson.
9	IRA JOSEPHSON
10	Called as a witness, being first duly sworn,
11	was examined and testified as follows:
12	MR. CHALENSKI: May I have one exhibit
13	marked at this time.
14	THE CLERK: Government's Exhibit twenty-
15	four, marked for identification.
16	(Document marked Covernment's exhibit
17	number twenty-four for identification.)
18	DIRECT EXAMINATION
19	BY MR. CHALENSKI:
20	Q Mr. Josephson, where do you presently reside?
21	A Wildwood, New Jersey.
22	MR. SHANAHAN: I can't hear you.
23	THE WITNESS: Wildwood, in New Jersey.
24	BY MR. CHALENSKI:
25	Q And your occupation?

1		
1	A	I am a pilot.
2	Q	And were you employed by Commuter Airlines and Broome
3		County Aviation at any time?
4	A	Yes, sir.
5	Q	And when were you employed by them?
6	A	July , 1973 to October, 1974.
7	Q	And how long have you been a pilot?
8	A	A total of nine years.
9	Q	Mr. Josephson, you were present at a meeting at the
10		Holiday Inn, of Vestal Parkway, in Vestal, New York,
11		of October 3, 1974?
12	A	I believe it was October 2nd.
13	Q	I am sorry. Do you recall that? Do you recall the
14		circumstances of your arriving at that meeting?
15	A	Yes, sir.
16	Q	And would you describe that for the jury, please?
17	A	It was at evening. I came into the room at the Holiday
18		Inn, and I was greeted there by Bob Slough, and Alex
19		Calder, at which point I met him for the first time.
20	Q	You met Alex Calder for the first time?
21	A	Right.
22	Q	And what did you do at that time?
23	A	Well, I was introduced and at that point I just sat
24		down, and was greeting other pilots coming into the

25

room.

	II .	
1		MR. SHANAHAN: I am sorry, we are not
2		able to hear back here.
3		THE COURT: I am having difficulty with
4		both of these witnesses. Speak louder, and more slowly,
5		please, so that we can hear you. Read that back.
6		(The previous answer was read by the
7		Reporter.)
8	BY A	MR. CHALENSKI:
9	Q	Was anybody else greeting pilots at the time that you
10		were greeting people?
11	A	Bob Slough was there introducing pilots to Alex Calder.
12	Q	Anybody else greeting them?
13	A	I can't recollect.
14	2	It was you greeting the pilots that were arriving, you
15		and Bob Slough and Alex Calder?
16	A	Yes, sir.
17	Q	Do you recall Alex Calder addressing the pilots at that
18		meeting?
19	A	When you say addressing
20	Q	(Interrupting) Speaking to them?
21	A	He gave a speech, yes.
22	Q	And do you recall him mentioning any names during the
23		course of his speech?
24	A	He did mention Bob Slough's name, and I believe my
25		name came up. At this time, that is all I can remember.

1	Q	You don't recollect any other names being mentioned by
2		Alex Calder, is that correct?
3	A	At this time, yes.
4		MR. SHANAHAN: What was the answer?
5		(The previous answer was read by the
6		Reporter.)
7	BY N	AR. CHALENSKI:
8	ବ	During the course of that meeting were union organi-
9	-	zational cards distributed?
10	A	Yes, sir.
11	Q	And did you receive an organizational card?
12	A	Yes, sir.
13	Q	And what, if anything, did you do with that card?
14	A	Well, I signed the card.
15	Q	And during the following morning did you have any
16		occasion to discuss the union card with anybody?
17	A	Yes, I had a flight in the morning.
18	Q	With whom?
19	A	John Herrington.
20	Q	And what did you tell Mr. Herrington about that card?
21		MR. RICHARDS: Just a minute. I object
22		to that as hearsay.
23		THE COURT: Could I have the question.
24		(The previous question was read by the
25		Reporter.)

1		THE COURT: Overruled. I will take it
2		for the fact that it was said, and not for the truth
3		of what was said. Go ahead.
4		MR. CHALENSKI: Thank you, Your Honor.
5	BY	MR. CHALENSKI:
6	Q	What, if anything, did you tell Mr. Herrington about
7		that card?
8	A	Well, we were in the airplane, flying back up to
9		Binghamton, and we were dicussing more or less the
10		meeting that we had the night before, and I did mention
11		the fact that I signed a card earlier in the week, and
12		I did mail it in.
13	Q	There came a time when you left the employ of Broome
14		County Aviation and Commuter Airlines, is that correct?
15	A	I am sorry, would you repeat it, please?
16	Q	There came a time when you left the employment of Broome
17		County Aviation and Commuter Airlines?
18	A	Well, I was terminated that day the next day.
19	Q	The next day being the day following the meeting at
20		the Holiday Inn?
21	А	Yes, sir.
22	Q	And under what circumstances were you terminated?
23	A	I was told
24	Q	(Interrupting) By whom?
25	A	Well, first it was by Ted Bell, and then I wanted to

1		speak to Jerry Winston
2	Q	(Interrupting) Let's discuss your conversation with Ted
3		Bell first. At what time did this take place?
4	A	Oh, in the morning. I don't remember the exact time.
5	Q	And it was following your flight with Mr. Herrington?
6	A	Yes, sir.
7	Q	Okay. And what did Mr. Bell say, and what did you say
8		during the course of that meeting?
9	A	Ted mentioned to me that he didn't like my performance
10		in the company. He went on to say that radio procedures
11		were not oh, were not up to par, or something, and
12		the fact that I was not getting along with other pilots
13		and not keeping myself available at the office. That
14		is about all. That is all I remember from Ted.
15		Then when I spoke with Jerry, it was
16		more or less the same thing, and mention was made that
17		I was not available for flights, and just more of the
18		same.
19	Q	Was anything mentioned about the union?
20	A	No. I had mentioned it, and it was denied.
21	Q	Well, at the time tell me what you said?
22	A	I said this probably has to do with these slips that
23		went in the mailboxes concerning the union. And Jerry,
24		at that point said, 'No, it has nothing to do with
25		the slips for the union.'

1	Q	And with regard to your being unavailable for a flight,
2		was there any occasions when you were unavailable for
3		a flight?
4	A	Well, the only times that I was not available for flight:
5		were the times that I had monthly reserve meetings, and
6		that is a weekend each month, and my two weeks during
7		the summer.
8		MR. SHANAHAN: Would you read that
9		answer again.
10		(The previous answer was read by the
11		Reporter.)
12	ВУ	MR. CHALENSKI:
13	Q	Did you tell anyone that you would be unavailable?
14	A	Yes, Ted Bell had my schedule. It was probably two
15		months ahead of time when I had Reserve Meetings.
16	Q	Prior to the time when you were terminated, did the
17		company ever tell you that they were unhappy with your
18		performance?
19	A	I would say about a month before I was terminated I
20		had a conversation with Jerry Winston in the hangar,
21		and he made a mention of that.
22	Q	A mention of what? Can you tell me?
23	A	He told me that Ted did not like my performance and
24		it is basically the same thing that I can remember,
25		anyway.

1	Q	And did they tell you any other time that they were
2		unhappy with your performance?
3	A	No.
4	Q	And prior to that time, were there any organizational
5		activities commencing at the Commuter Airlines and
6		Broome County Aviation, Inc.?
7	A	Well, there had been rumors of unions going around
8		MR. SHANAHAN: I think that is not
9		responsive.
10		MR. RICHARDS: I join in that motion.
11		THE COURT: Sustained, and strike it out.
12	BY	MR. CHALENSKI:
13	Q	Mr. Josephson, I hand you a copy of Government's Exhibit
14		number twenty-four for identification (offering), and
15		have you ever seen that cassette before?
16	A	That type, yes, sir.
17	Q	And under what circumstances?
18	A	I had purchased this with Ronnie Williams, and to have
19		have it for the meeting.
20	Q	And did you, after you purchased it with Ronnie Williams
21		Ronnie Williams had possession of it?
22	A	That is correct.
23	٩	And at any time did Ronnie Williams give you possession
24		of that tape?
25	A	Yes, after the meeting I took possession of it from

1		Ronnie.
2	Q	And what day would that be?
3	A	The exact date, I don't know, but I would roughly say
4		it was about a week I guess, it was, following my
5		termination.
6	Q	And what, if anything, did you do with that cassette?
7	Á	I had it in my possession, and I gave it to Alex Calder.
8	à	And what date did you give it to Alex Calder?
9	A	Well, I had it on my possession for about a week and
10		a half, and at that point I gave it to Alex Calder.
11	વ	And for that week and a half that it was in your
12		possession, where was it?
13	A	It was in my apartment.
14	Q	And does anybody else reside at your apartment?
15	A	No, sir.
16	Q	Was anybody else in that apartment besides you, without
17		you being there?
18	A	No, sir.
19	Q	And did anybody else have that tape in their possession
20		during that week and a half?
21	A	No, sir.
22		MR. CHALENSKI: That is all of the
23		questions I have of Mr. Josephson. Thank you.
24		THE COURT: Any cross examination.
25		CROSS EXAMINATION

1	BY MR. RICHARDS:
2	Q Mr. Josephson, had you discussed this tape of Mr. Calder
3	before the tape was placed on a machine?
4	A No, sir.
5	Q Had you discussed buying this tape with Mr. Williams?
6	A Yes, sir.
7	Q And when did that conversation take place in relation
8	to the meeting, if you know, that you used it, if you
9	know? Do you know do I understand that you purchased
10	the tape and gave it to Mr. Williams, is that correct?
11	A Well, Ronnie Williams. I went with Ronnie Williams to
12	purchase the tape.
13	Q And then did you retain possession of the tape, or did
14	Mr. Williams?
15	A At that point Ronnie Williams did.
16	Q And then you had no further knowledge as to what was
17	being done with that tape, is that correct?
18	A No, that is correct. I did have knowledge of what was
19	going to be done with the tape.
20	Q And did you have this conversation with Mr. Williams
21	as to what was to be done?
22	A Yes, sir.
23	Q And what was the substance of that conversation?
24	A It was merely the fact that he was going to put a
25	tape recorder in the room, and have the meeting taped.

- 1		
1	Q	This conversation withdrawn. At the time that you
2		bought the tape, when was that in relation to your
3		discharge date, if you can recall?
4	A	I would say it would be less than a week from my
5		discharge. I believe that the meeting was a week after
6		I had been discharged.
7	ବ	Now, you were discharged on October 3rd?
8	A	That is correct.
9	Q	And you think that the conversation with Mr. Williams
10		took place one week after your discharge, or thereabouts
11	A	Concerning the tape, sir?
12	à	Yes, sir.
13	A	Yes, sir.
14	Q	Now, in the course of that conversation, were there
15		any references to a meeting to be held by the company?
16	А	Yes, sir.
17	Q	And was there a discussion when that meeting was to be
18		held?
19	A	Let me rephrase something. The tape was purchased, I
20		believe, it was the morning of the meeting, okay. So
21		then we did have knowledge of that meeting.
22	Q	All right.
23		MR. RICHARDS: May I have an opportunity
24		to review the testimony before the Grand Jury?
25	1	THE COURT: We will take our lunch and

- 1	
1	recess at this time, and we will . convene at two o'clock.
2	Don't talk about the case and don't let anybody talk
3	about it with you.
4	(Whereupon, the Jury was excused.)
5	THE CLERK: Court stands in recess
6	until two p.m.
7	(Whereupon, after the luncheon recess,
8	the proceedings were continued before the Court and
9	the Jury.)
10	BY MR. RICHARDS:
11	Q Mr. Josephson, was it your testimony this morning,
12	that you had spoken to Mr. Winston regarding your
13	job performance, one month before your discharge in
14	October?
15	A Yes, sir.
16	Q Was that the early part of September of 1974?
17	A I believe so.
18	Q Were only you and Mr. Winston present during this
19	conference?
20	A Yes, sir.
21	Q And what did Mr. Winston say to you at that conference?
22	A Well, I can't I can't remember too much of what was
23	said but the crux of the whole conversation we did have
24	was the fact that he mentioned that Ted Bell, Ted, did
25	not like my performance and was

(Interrupting) Did you ask for any explanation as to 1 what he meant by your performance and what criticism 2 was being leveled against you? 3 Yes, I did. 4 A And what answer did you receive? Q 5 I don't remember exactly. A 6 Did you have any other conferences with either Mr. Winston or Mr. Bell regarding your job performance before your 8 discharge? 9 No, sir. 10 A Do you recall being on a flight with Mr. Winston to Q 11 Boston in June of 1974? 12 yes, sir. 13 And in the course of that flight, did you have a con-14 versation with Mr. Winston concerning your job perfor-15 mance? 16 I don't recall, no , sir. 17 A Now, in the October union meeting had you received 18 2 notice of that meeting by word of mouth, or written 19 notice? 20 It was word of mouth. 21 A I see. You don't happen to recall who told you, do 22 Q you? 23 I heard it from a couple of people. I do know that, 24

but specifically, no.

1 Q If I understand your testimony, the meeting lasted 2 approximately three and a half hours that evening, is 3 that right? 4 Approximately, yes. A 5 And the next morning you had flight duties, is that 6 correct? 7 That is correct. A And do you recall what run you had that morning? 8 6 I would -- I hate to guess. I don't recall the run, 9 A 10 no. Could it have been the Washington run? 11 It could have been. 12 Do you recall who the pilot was? 13 2 Yes, it was John Herrington. 14 A 15 Are you sure of that? 16 Yes, sir. A And could it have been any other pilot? 17 No, I remember it was John Herrington. 18 A It couldn't have been Paul Floto? 19 20 No, sir. A I get it from your testimeny that you had a discussion 21 Q with Herrington on that flight, concerning what had 22 happened at the union meeting the night before, is 23 that correct? 24

That is correct.

25

A

1	A	That is correct.
2	2	And what did you say to Herrington during the
3		conversation?
4	A	I don't remember exactly what I said, but we discussed
5		the meeting the night before, and the fact that the
6		yellow cards that were sent around, that I had mailed
7		it in, and then after that, I didn't say much more after
8		I mentioned the fact that I did mail the card in.
9	à	Was John Herrington at the meeting the night before?
10	A	Yes, sir.
11	2	Do you recall, was there any other discussion regarding
12		what happened at the meeting, between you and Herrington,
13		on that flight?
14	A	I don't recall, sir.
15		THE COURT: What were these yellow cards?
16		THE WITNESS: These were I don't know
17		exactly the type the cards that the union would send
18		around that you were interested in organizing a union.
19		THE COURT: Had they been passed out at
20		the meeting the night before?
21		THE WITNESS: Yes, sir.
22		THE COURT: Is a Defendant Exhibit one
23		of those cards?
24		THE WITNESS: Yes, sir.
25		THE COURT: Did you offer it?

.

ю

- 1	
1	MR. RICHARDS: No, not yet, sir.
2	THE COURT: Are you going to?
3	MR. CHALENSKI: May I see it, please?
4	THE COURT: I want to say to the Jury
5	that if I ask a question it is to try and make something
6	clear. It is not my function to try the case on either
7	side.
8	MR. CHALENSKI: Is this representative
9	of the authorization cards that you saw on the night
10	of October 2, 1974 (indicating)?
11	THE WITNESS: Yes, sir.
12	MR. CHALENSKI: I have no objection to
13	it being offered.
14	THE COURT: It is received.
15	(Defendant's Exhibit B for identification,
16	received in evidence.)
17	BY MR. RICHARDS:
18	Q Did Mr. Calder distribute those cards that night?
19	A Yes, sir.
20	Q And were the pilots asked to sign those cards that
21	night?
22	A I don't believe so, sir.
23	Q Do you know of any of the pilots who did sign their
24	cards in the presence of each other that night?
25	A I believe that all of us that attended the meeting did

1		sign the card.
2	Q	Now, when you came in from your Washington flight, did
3		you speak with Mr. Bell, first?
4	A	Well, yes, sir.
5	Q	And how long would you estimate this conference with
6		Mr. Bell lasted?
7	A	I would I would approximate say a half hour.
8	હ	And specifically, what criticisms, or what did Mr. Bell
9		say regarding your work performance at this time?
10	A	He did make, from what I remember, he made a mention
11		of my radio procedures
12		MR. SHANAHAN: What was that?
13		MR. RICHARDS: Radio procedures.
14	BY	MR. RICHARDS:
15	ą	Did he go into any detail as to the radio procedures?
16	A	No, sir.
17	Q	Go ahead.
18	А	Well, my compatibility with the office help.
19	Q	Did he elaborate on that at all?
20	A	No, sir.
21	Q	Did you ask any questions regarding what he meant by
22		that?
23	A	Yes, sir.
24	Q	And what did you ask him?
25	А	I couldn't understand why he said these things, so I

.

1		wanted a little more elaboration on it, and it just
2		kept more or less going from one thing to another.
3	Q	Well, did he explain what he meant by office procedure?
4	A	The fact that I wasn't around the offices much, and that
5		I was not getting along with the office help.
6		THE COURT: How long had you been with
7		the company?
8		THE WITNESS: A year and three months,
9		sir.
10		THE COURT: Had he ever complained about
11		any of this before?
12		THE WITNESS: No, sir.
13	BY M	R. RICHARDS:
14	Q	Did you have any administrative responsibilities, as
15		well as flying?
16	A	Just the fact that we the pilots would work on the
17		ticket counter, and basically that was it.
18	Q	Were you required at all to keep up the Canada Air
19		pilot line?
20	A	Yes, sir.
21	Q	And was that your responsibility to keep it up to date,
22		the log?
23	A	Yes, sir.
24	Q	And briefly would you explain to the jury what that
25		volume is?

1	A	It is approach charts, and current charts of the Canada
2		area and what I was to do was to keep it up to date.
3		Each month we would get revisions, and I was to place
4		them in the book.
5	Q	And did it generally describe the condition of the airport
6		located in Canada?
7	A	Airports of Toronto and we would fly some charters up
8		in the Toronoto area, and there were just the revisions
9		and to place these in the book,, and take the old ones
10		out.
11	Q	Do you keep that manual up to date?
12	A	Yes, sir.
13	Q	And did anyone from management ever speak to you about
14		your failure to keep it up to date?
15	A	Yes, sir.
16	Q	And when was that?
17	A	Oh, I don't remember exactly.
18	Q	But at some time during 1974?
19	A	Yes, sir.
20	હ	And who spoke to you?
21	A	I believe it was John Herrington.
22	Q	And what did he say to you regarding that?
23	A	I don't remember what he said to me.
24	Q	But in substance, it was to ask you to bring that
25		manual up to date?

201

1		
1	A	Yes, sir.
2	Q	Did any other person speak to you regarding that manual?
3	A	I don't remember.
4	Q	Were you also responsible for filing certain F.A.A.
5		forms?
6	A	I don't remember. Keeping the log books up to date,
7		and that is from what I remember.
8	Q	And you don't recall being required to file any F.A.A.
9		forms?
10	A	Such as what?
11	Q	Do you recall being on a flight with pilot Solberg to
12		Newark, in August of 1974, in which you ran into
13		inclement weather, and do you recall that incident?
14	A	Could you be a little more specific?
15	Q	Yes.
16		Your airplane came down in Newark, and you were co-pilot
17		and you refused to take off with that airplane because
18		of the weather. Do you have any recollection of that
19		incident?
20	A	No, I don't. I don't believe that I refused at all
21		at any situation.
22	Q	Did you ever fly with Solberg?
23	A	Yes, sir.
24	Q	But you have no recollection of that incident at all?

No, none at all.

- 1 Q Was there anything further said by Ted Bell regarding 2 your job performance at that conference? 3 À I just don't remember. I am sorry. 4 Then, I gather from your direct testimony that you asked Q 5 to see Mr. Winston, is that correct? 6 A Yes, sir. Q And you did see him that morning? A Yes, sir. 9 And you talked with him for a period of time? 10 I would estimate maybe forty-five minutes; a half hour 11 or forty-five minutes. 12 And did he discuss your job performance? Q 13 A Yes, we did. 14 And would you identify little things that he mentioned 15 regarding your job performance at that conference? Well, he made a mention that my compatibility with the 16 17 other pilots and with the office help, plus the fact 18 that I didn't spend enough time around the office, and 19 he made a mention that I was not available for flights. 20 Is that all you can remember?
- 21 A Yes, sir.

- 22 And was there any mention of switching names on duty 23 rosters?
- 24 A I don't recall.
 - Q Were there any occasions in 1974 when you were not

1		available on call?
2	A	Yes, sir.
3	Q	And do you recall when that was?
4	A	I have a Reserve Meeting, a weekend meeting, but that
5		is known ahead of time and I was not able to be available
6		during that time.
7	Q	And was that theonly occasion that you were not available?
8	A	From what I can recollect, I have been , most of the time
9		available all of the time available for flights.
10	Q	All right. Have you told me everything you can recall
11		from what Winston said to you at that conference?
12	A	From what I remember, yes.
13		(Document marked Defendant's Exhibit C
14		for identification.)
15	BY N	AR. RICHARDS:
16	Q	Do you recall speaking with the F.B.I. on June 11th,
17		1975, regarding this matter?
18	A	Yes, sir.
19	Q	And do you recall discussing with them the reasons
20		why you thought you were fired by Winston?
21	A	Do I recall that?
22	Q	Yes, telling them that?
23	A	What I had mentioned.
24	Q	And what did you tell the F.B.I. regarding your reasons
25		for being fired?

1	Α	That I had poor radio procedures, and compatibility
2		with the office help, and the other pilots.
3	ବ	Did you tell the F.B.I. at that meeting that you felt
4		Winston was firing you because you were not able to get
5		along with the secretaries; do you recall telling him
6		that?
7 *	Α	Yes, sir.
8		MR. RICHARDS: I have no further
9		questions.
10		THE COURT: Mr. Shanahan?
11	ВУ	MR. SHANAHAN:
12	Q	Mr. Josephson, first of all I would like to ask you
13		about that meeting at the Holiday Inn. Now, as I under-
14		stood your testimony in connection with that meeting,
15		that was the first time that you met Mr. Calder, was it?
16	A	That is correct.
17	Q	And you met him at the room or near the room where
18		the meeting was to be held in the local Holiday Inn
19		at Binghamton?
20	A	That is right.
21	Q	And you did receive, yourself, a call notifying you
22		of the meeting, sometime earlier that same day? Had
23		you?
24	A	I don't remember if it was the same day or if it was
25		earlier, but I remember receiving word that there was

U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N. Y.

- 1 a meeting that night. And you don't recall whether it was the same day of the 2 meeting, or perhaps a day or so ahead? 3 A No. 4 And I think that you indicated to someone here that you 5 didn't recall who it was who contacted you by telephone? 6 That is correct. A All right. But in any event, you did go to the meeting 8 that night? 9 That is correct. A 10 All right. And I think that you mentioned with whom Q 11 you went. I didn't catch the names, and would you tell 12 us again, please? 13 No, I went alone. 14 You'went alone? Q 15 I didn't say if I went with anyone. 16 A I see, all right. Now, at the time of that meeting, 17 let me ask you: Were you working out of Binghamton, 18 were you? 19 A Yes, sir. 20 And were you living in Binghamton at that time? Q 21 I was living in the town of Endicott. 22 A
 - Q Now, this meeting was scheduled for some time around

Right near Binghamton?

Q

Yes.

23

24

1		seven o'clock in the evening?
2	Α	I would say so. It was in the evening, I do remember
3		tnat.
4	Q	And this was in some type of a meeting room at the Holiday
5		Inn?
6	Α	Yes, sir.
7	a	Now, on your arrival there, I think that you told us
8		previously that you met Mr. Calder at that time?
9	A	Yes, sir.
10	Q	Right. And that then you sat down and you greeted other
11		pilots that came in, did I hear that correctly?
12	A	No, sir.
13	Q	What did you say? I am sorry.
14	A	When I came into the room I was introduced to Mr. Calder
15		by Bob Slough, and then at that point other pilots were
16		coming in and I sat down.
17	Q	I see. I perhaps misunderstood you. I am sorry. I
18		had a little difficulty where I was located.
19		So you sat down, then, and eventually
20		the meeting was called to order and proceeded, would
21		that be right?
22	А	Yes, sir.
23	Q	Okay. And this meeting lasted a matter of some three
24		hours?
25	A	Approximately, yes. I don't know exactly how long.

1 Q Well, you mentioned Mr. Calder spoke at the meeting? 2 A Yes, sir. 3 Did other people in addition to him, speak at this 4 meeting? 5 A There were questions. A few of us had questions to ask 6 Mr Calder, yes, sir. 7 And was there any other speaker, other than Mr. Calder? 8 No, he was basically the main speaker. 9 I see. And then following his talk, questions were Q 10 asked from the floor, is that substantially the way 11 it happened? 12 That is correct. A All right. Do you recall the name of the people who 13 Q 14 were present at that meeting? 15 A Yes, sir. And would you tell us, as best you can recall? 16 Q Well, Bob Slough, Mike Baan, Mike Kleitz, John 17 A Herrington, Hank Excel, and Paul Sholl. 18 Is that about all that you can readily recall? 19 2 20 A Yes. And what about Mr. Floto? Q 22 A I believe so, yes. And I don't know whether you mentioned Williams, and 23 0 24 was he there? I don't remember. I believe he was, but I don't remember. 25

A

1	ୟ	How about Lamos?
2	A	I don't know. I don't know.
3	Q	Well, let me ask you: Was this as you understood it,
4		a meeting of the pilots, the Captains and the co-pilots?
5	A	Yes, both Captains and co-pilots were present.
6	Q	That is, they had all bee invited with the exception,
7		as I understand it, of Mr. Bell, who was the Chief Pilot,
8		and I guess there was some question as to whether Mr.
9		Herrington was invited?
10	A	I believe so.
11	Q	Well, now, do you know about how many pilots and co-pilots
12		there were in the employ of Commuter at that time?
13		Could you approximate them?
14	A	Yes, I am I would say maybe fifteen as a rough esti-
15		mate.
16	a	Would you say that there were about all of them present,
17		with the exception of Mr. Bell?
18	A	No.
19	Q	Could you approximate the total number, in numbers
20		that were there, including, of course, Mr. Calder?
21	A	I would say ten, maybe.
22	Q	About ten?
23	А	Yes.
24	Q	All right. Now, you spoke on direct examination that
25		when Mr. CAlder gave his talk that he mentioned you by
	-	

1		you by name, and he also mentioned Mr. Slough by name?
2	A	That is correct.
3	Q	And that those were the only two names that you remember
4		that he mentioned? Did I get that correctly?
5	A	Yes, I would say so.
6	Q	And did he mention other names as well?
7	A	I don't remember.
8	Q	I see. All right. But in any event, you say that you
9		signed a card, similar to Exhibit C that was handed to
10	1	you a little while ago, is that so?
11	A	Yes, sir.
12	Q	And I think that you said that to your observation,
13		practically everybody there signed one?
14	A	That is correct.
15	Q	Did Herrington sign one, as well, as you, do you know?
16	A	Everyone that was present signed.
17	Q	Everybody d1d?
18	A	Yes.
19	Q	All right. And now, was there any decision made at that
20		meeting to take any particular action?
21	A	No, I can't say so. I think it was an informal meeting.
22	Q	Yes.
23	A	And it was a start to do something.
24	9	Okay. And, now, when you signed a card similar to
25		Exhibit C, this yellow card, that was signed at the

1		request of whom, Mr.Calder?
2	A	No, we all volunteered to sign the card.
3	Q	Well, where did the cards come from?
4	A	Mr. Calder.
5	Q	So he made them available?
6	A	That 's right.
7	Q	And as I understand it, he didn't ask anybody to sign
8		it, but you people did, voluntarily?
9	A	That is correct.
10	ୟ	Once the cards were made available?
11	A	That is correct.
12	Q	And I presume that you know what the card said when
13		you signed it?
14	A	Yes, sir.
15	a	And it indicated that you were an employee when you
16		filled in the name of the company?
17	A	That is correct.
18	Q	And what your job was, and your home address, and then
19		the card went in to somebody and I think it says
20		' Airline Division of the International Brotherhood
21		of Teamsters to petition the Government on my behalf
22		for a secret ballot representation election, and to
23		represent me in collective bargaining'?
24	A	That is correct.
25	Q	And you say that you signed one and everybody else

	II	
1		
2		signed one?
	A	That is correct.
3	Q	Including Herrington?
4	A	That is correct.
5	9	But there was no formal vote taken, if I follow you
6		correctly; no formal vote taken to follow any particular
7		procedure?
8	A	No formal vote, no.
9	Q	I see. Now, so that when this meeting concluded it
10		was around 11 or 11:30 at night, would you say?
11	A	Approximately, yes.
12	Q	And did everybody at that time, leave the meeting hall
13		and disperse, or did they remain around the Holiday Inn
14		for a time?
15	A	I don't remember that.
16	Q	Do you recall what you did?
17	A	I went home after that.
18	Q	And you had flight duty on the following morning?
19	A	That is correct.
20	Q	And you have indicated, I think, that it is your
21		recollection that you flaw that following morning to
22		Washington?
23	A	Well, I indicated that I flew the following morning.
24		Whether it was to Washington or not, I don't remember.
25	Q	And you are not sure of the destina ion?

- 1 A No.
- 2 But in any event, it would be your recollection that
- you flew with Herrington?
- 4 A Yes, I did, yes.
- And in the course of that flight, or in preparation of
- 6 the flight, you mentioned to Herrington that you had
- 7 signed a yellow card?
- 8 A That is correct.
- 9 Q And he had signed a card?
- 10 A Right. During the flight, do you mean?
- 11 Q No, the night before at the meeting?
- 12 A Yes.
- 13 Q You weren't signing any cards during this flight?
- 14 A No, I thought you -- no.
- 15 Q But what you told us here was , on direct examination,
- that in the course of that flight with Mr. Herrington,
- 17 the day after the meeting, you said to him in substance,
- 'I signed a yellow card last night'?
- 19 A No, that is not what I said.
- 20 Q What did you tell him?
- 21 A I said earlier in the week I received a yellow card
- 22 at which point I mailed mine in.
- 23 | Q You said that you got one earlier in the week?
- 24 A Yes.
- 25 Q I misunderstood you then. I thought that you were

1		telling him that you signed one the night of the meeting
2	A	Yes, because we all signed one the night of the meeting.
3	Q	You signed two, then?
4	A	Yes, sir.
5	Q	And one at an earlier time, then one on the night of
6		the meeting, is that what happened?
7	A	Right.
8	ବ	And you weren't telling us that you signed the card
9		at the same time he signed one, but a few days ahead,
10		would that be it?
11	A	More or less correct.
12	Q	All right. Now, wherever your flight was, then, that
13		following day, whether to Washington to wherever, you
14		returned to the Broome County airport at the conclusion
15		of that flight?
16	A	That is correct.
17	Q	And was that when you had the talk with Mr. Bell?
18	A	That is correct.
19	Q	And do you recall at about what time of the day that
20		occurred?
21	A	I would approximately about 11 o'clock; 10:30 or
22		11 o'clock.
23	Q	And where did that conversation take place, the first
24		conversation with Mr. Bell?
25	A	In Mr. Winston's office.

1 0 And Mr. Winston, at that time, was not there? A That is correct. 2 Q In Mr. Winston's office, is that right in the Broome 3 County airport building? 4 A That is correct. 5 2 I think that you told Mr. Richards just a few minutes 6 ago that that conversation with Mr. Bell lasted about 8 a half or three-quarters of an hour? I approximated it about half an hour. 9 2 Now, let me ask you: Hadn't you had a number of talks 10 with Mr. Bell previous to that day that you were 11 12 discharged? Not that I can recall, sir. 13 6 Were the subject of your job, and the performance of 14 your job, was discussed? 15 16 A No. sir. Well, hadn't you , on many occasions been told by Mr. Q 17 Bell that he was dissatisfied with your work? 18 Not from M. Bell. A 19 Not from Mr. Bell? 6 20 No. it came out in the conversation with Mr. Winston. A 21 And would you tell us , then, that there were many 22 Q occasions that Mr. Winston told you that your work 23 was not satisfactory to Bell? 24 No. sir. That one time that he mentioned it to me. 25 A

1	Q	And that was in September?
2	A	Yes, sir.
3	Q	And that was very shortly before your discharge?
4	A	That's correct.
5	Q	All right. And Mr. Winston, at that time, told you
6		that Ted Bell was dissatisfied with your work?
7	A	I don't recollect him saying it exactly that way.
8	Q	What did he say?
9	A	From that conversation what I did remember was the fact
10		that he did not like my performance.
11	٩	Mr. Bell did not like your performance?
12	A	That is right.
13	Q	All right. And in connection with that conversation
14		you had with Mr. Winston, did he explain to you why
15		Mr. Bell did not like your performance?
16	А	Not that I can remember. He did make a mention gee,
17		I can't remember.
18	Q	Well, that was a matter, I take it, that at that time
19		was fairly important to you, that the owner of the
20		company was telling you that the Chief Pilot didn't like
21		your work, wouldn't that be so?
22	A	Well, the only reason I say it that way was because
23		we had rumors of the union going around at that point.
24	Q	I am not asking you anything about rumors. I am asking
25		you shout what Mr. Winston said to you as to why Mr. Bel

#

was not satisfied with your work? 1 I don't know. 2 A That is a simple question? Q 3 I don't remember, sir. 6 You don't remember that? 5 No, sir. 6 A No recollection whatsoever? I do remember the fact that he did not like my 8 A performance. Go ahead. Well, did you ask him in what manner you 2 10 had performed that displeased Mr. Bell? 11 I did. A 12 Well, what did he say? Q 13 I don't remember, sir. 14 You don't remember? 15 Q It has been a while. 16 Did he tell you that Bell had complained to him that 17 you had changed the duty roster to substitute another 18 co-pilot's name for yours in order to avoid a particu-19 lar flight, or particular work? 20 No, sir. 21 A Well, had you done that? 22 0 No, sir. 23 A From time to time?

3

No, sir.

25

A

1 Q And you swear that you never did? 2 A I will say within the company, if he had scheduled me. 3 and I had a eserve eeting or something, it was allowed 4 in the company where you can actually change with a 5 certain person on the flight, as long as it was covered. 6 Q Now, this Reserve Meeting, let's get to that. The 7 Reserve Meeting was what; once a month? 8 That is correct. A 9 And so that that only interferred with your work on one 10 occasion during each 30-day period would that be right? 11 A Two days out of the month. 12 Q And those would be consecutive days? 13 That is correct. A 14 And when you were employed you made it known that you 15 were obligated to that Reserve duty? 16 That is correct. A 17 Q So that everybody knew that? 18 That is correct. A Now, I am asking you: Did you change the work schedules 19 Q on occasions that had nothing to do with your Reserve 20 Duty and substitute another co-pilots name for yours 21 22 when you had been assigned to flights? 23 A Yes, sir. And you had done that, had you not, on numerous occasions?

U.S. COURT REPORTERS FEDERAL BUILDING ALBAPT, N. Y.

I would not say numerous occasions.

24

25

A

Q Well, how many times do you admit that you did it? 1 A Five times. 2 2 Five times. Now, Mr. Josephson, when a work chart, or 3 whatever you call it, was prepared, it would be prepared 4 by Mr. Bell, normally, would it not? 5 That is correct. A Assigning particular pilots, Captains and co-pilots to Q flights? 8 That is correct. A 9 And when you changed one of those schedules, you were 0 10 changing the assignment that he, the Chief Pilot had 11 made, are you not? 12 Well, when we did change it, he was notified at the A 13 time. 14 He was notified that you took it upon yourself to change 2 15 it, is that what you are telling us? 16 Yes, sir. A 17 Well, now, hadn't Bell complained to you much earlier 2 18 before your discharge, that you had no business changing 19 those schedules that he set up, and that he didn't like 20 your taking it on yourself to change them? Hadn't he 21 told you that? 22 At certain instances. A 23 I beg your pardon? Q 24 At certain instances, it had to be changed because we 25

1 were going over our work hours, our work duty time. Q My question is: Hadn't Bell told you that he didn't 2 want you changing those work schedules? 3 A couple of times, yes, he said that. A 4 And the fact of the matter was that you continued to 5 change them when it suited your convenience, isn't that 6 right? Not suited my convenience, no, sir. 8 Well, now, you traded jobs, did you not, with other Q 9 co-pilots; that is, if you were assigned to a particular 10 flight, you would sometimes get someone else to take 11 your flight for you, isn't that true? 12 For reasons, yes, sir. 13 And then, the co-pilot took your flight and expected Q 14 you to reciprocate and take one for him, isn't that 15 right? 16 Well, certain times it had to be done for work times. 17 And you never did reciprocate, and wasn't that part 18 of the trouble? 19 A No. sir. 20 Q That wasn't part of the trouble? Well, you were told 21 by Mr. Bell, that certain of the pilots had recommended 22 that you be fired? 23 24 A No, sir. Q Had Mr. Winston told you that? 25

U

- A No, sir.
- 2 | Q Well, you indicated, I think to Mr. Richards, that you
- were told that you weren't -- let me see, how did he
- 4 put it; that you weren't compatible with certain people?
- 5 A That is what I was told, sir.
- 6 Q Well, were you told that it was their feeling that you
- were not compatible with pilots, and co-pilots?
- 8 A That is what I was told.
- 9 Q Yes, right. Now, did you ask why you weren't?
- 10 A Yes, but I didn't believe that statement.
- 11 | Q You didn't believe it?
- 12 A No, because --
- 13 Q (Interrupting) I don't care whether you believed it
- or not. Did you ever ask whether any of these pilots
- and co-pilots had complained about you?
- 16 A Yes.
- 17 Q Well, what were you told?
- 18 A Well, he would tell me a person, and then I would go
- to that person, and it was just not true.
- 20 Q Well, when did that happen, now?
- 21 A During the -- let me see: I guess during the time I
- 22 was in the room with Ted.
- 23 Q During the time, what?
- 24 A I was in the room with Ted, at my discharge.
- 25 Q Well, when you were in the room with Ted, you didn't go

1 out and talk to some pilot and then come back in and continue talking with him, did you? 2 He mentioned Paul Floto that I was talking with, and I A 3 4 couldn't understand why he would say that. Now, as a matter of fact, hadn't Bell complained about 5 Q just such things as that on numerous occasions before 6 the day that you were discharged? No, sir. 8 A Well, now, when you say you talked to Mr. Winston about 9 a month before, and he told you that Bell was displeased 10 with your performance, ald he tell you that Bell had 11 recommended that you be discharged? 12 No, sir. A 13 Did he tell you that you were on thin ice? Q 14 Not that I remember, sir. 15 A You don't remember him using those words, do you, sir? 16 0 17 No, sir. A Now, with reference to this compatibility with the 18 2 office help; there was office help at the Commuter office 19 in Broome County Airport, would that be right; 20 secretaries and so on? 21 Yes, the Broome County Aviation. 22 A And then did you have, in the course of your everyday 23 work, some connection with these various girls that 24 worked as secretaries? 25

1	A	Yes, sir.
2	Q	And what would be the nature of your dealings with them?
3	Α	We would find out what our schedule was for the date,
4		by calling them.
5	Q	Now, had you had some difficulty with some of these
6		girls in connection with what the schedules were?
7	A	No, sir.
8	Q	Well, you were told, as I understand it, that you were
9		believed to be incompatible as far as the office help
10		was concerned?
11	A	That is correct.
12	Q	Did you ask in what way, or did you know?
13	À	I had asked. But I couldn't understand why it was put
14		to me.
15	Q	And maybe you didn't understand it, but what was told
16		to you?
17	A	From what I remember, the fact that I was not getting
18		along with the office help.
19	Q	You say that you asked about that, and what did they
20		tell you about your not getting along with the office
21		help?
22	A	It seemed like at that conversation that we went from
23		one subject to another rather quickly, and I don't
24		remember what was said.
25	٥	Mr. Josephson, I had the impression that you are not

U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N. Y.

1	answering my questions. I am asking you what was said
2	to you in response to your inquiry as to in what manner
3	if that is the way that you said it, that you weren't
4	getting along with the girls in the office?
5	A And I don't recollect.
6	Q You just don't recollect?
7	A No.
8	MR. SHANAHAN: May I have this marked
9	as Defendant's Exhibit E.
10	THE CLERK: Defendant's Exhibit E, marked
11	for identification.
12	(Document marked Defendant's Exhibit E
13	for identification, this date.)
14	BY MR. SHANAHAN:
15	Now, I show you Defendant's Exhibit E for identification,
16	and do you recognize this as the aircraft and crew
17	schedule sheet?
18	A Yes, sir.
19	Q And is that a sheet that is kept in the normal operation
20	of the business of Commuter Airlines, or Broome County
21	Aviation?
22	A Yes, sir.
23	Q And you are familiar with the makeup of those sheets,
24	as a result of your employment there, are you?
25	A Yes, sir.

1 2 Right, Mr. Josephson? 2 A Yes, sir. Now, does that sheet bear the date of October, 1974? 3 Q A Yes, sir. 5 And would that appear to be a sheet of the flights and 6 crew schedules for that particular time? Yes, sir. 8 Now, this one is the day that we are talking about that you were discharged, and that you tell us that you flew 9 10 somewhere with Mr. Herrington? 11 A Yes, sir. 12 Q And would you locate your name on that sheet for us? 13 Right here (indicating). And now, does that refresh 14 your recollection as to what flight you were on that 15 day? 16 Yes, sir, the flight to Washington. 17 And does it indicate who the pilot was, the Captain 18 on that flight? 19 It says here it was Captain Floto. A 20 Well, now, does that refresh your recollection as to 21 who you flew with that morning? I remember flying with Herrington. A 23 So that this doesn't refresh your recollec ion that it Q 24 was, in fact, Floto, and I take it from that answer 25 would that be right?

1 A That is correct. And who makes out these sheets? Is this something 2 2 that you would have anything to do with? 3 A No. 4 5 Q And your name, so that the record will be clear, under the heading of co-pilot, is 'Ira' and is Ira your 6 first name? Is that right? 8 À Yes. 0 And that is the way the entry is made indicating you. 9 and under the heading of the Captain is the name 10 'Floto' and would that be right? 11 Yes, sir. A 12 And where do we find -- I am not familiar with this, 0 13 where do we find the flight that you said was to 14 15 Washington? That is flight 100, and 101. 16 A That is flight 100 and 101, or what is that? 17 0 The flight 100 is to Washington, and from Washington 18 A to Binghamton is flight 101. 19 And that designation and record, would that be right? 20 Q 21 A Yes. Now, after you concluded your conversations with Mr. Bell 22 Q on the morning of your discharge, you then, as I under-23 stand it, proceeded to talk for some period of time 24

with Mr. Winston?

1 That is correct. A And did that conversation with Mr. Winston take place 2 at the same location, that is, in the Winston office? 3 That is correct. A 4 And was Mr. Bell there at that time? Q 5 No. I believe he was not present. A I see. So that when your conversation with him, to the extent that you have given it to us, terminated, he apparently left the room and you remained there, and 9 went on into a conversation then, with Mr. Winston? 10 That is correct. 11 Would that be so. And I think that you indicated to us 12 in a general way that you talked with Mr. Winston, 13 and it was about the same as your talk with Mr. Bell? 14 That would be correct. 15 Now, was there, in the talk with Mr. Winston, was there 16 any reference made to the fact that a month before he 17 had talked to you on this same subject? 18 That is correct. 19 And did he tell you that in the course of that talk, 20 2 that he had interceded with Bell in your behalf, as 21 long as he could do it? 22

You wouldn't say that didn't occur or wasn't sale?

I don't remember.

23

24

25

A

A

NO.

1		ISD CHANAMAN, TALAL
		MR. SHANAHAN: I think that that is all.
2		There is one other thing further, if I
3		may, Your Honor?
4		THE COURT: Surely.
5	BY M	R. SHANAHAN:
6	Q	With reference to this tape that was mentioned as an
7		exhibit, here I think it was Exhibit twenty-four for
8		identification, I am not clear with reference to that.
9		Did I understand you to say that you participated in the
10		purchase of that tape?
11	А	That is correct.
12	Q	And where was that purchase made , if you remember?
13	A	It was in Binghamton.
14	Q	I beg your pardon?
15	A	Binghamton.
16	Q	Do you recall what store?
17	A	It was in a Binghamton Shopping Center or someplace.
18		The exact store, I don't remember.
19	Q	And I think that your testimony was that it was purchased
20		pout a week after you were discharged?
21	A	That is correct.
22	Q	And so that if you were discharged on the 3rd, it would
23		have been somewhere around the 10th, a week later or
24		seven days later?
25	Δ	No. I believe. I don't think it was that long.

1 Q So it was some time less than a week after your discharge? 3 Yes. All right. And did you buy it, or did Mr. Williams, or 5 did you go together? We went together. 6 A 7 You went together, all right. And did the tape end up 8 then in the possession of Mr. Williams, after the 9 purchase was made? 10 A That is correct. 11 And you saw the tape next, when? Q 12 I received it from Ronnie after the meeting. 13 Ronnie is Mr. Williams? Q 14 Yes, sir. And you received it from him how long after it was 15 purchased? 16 Well, I received it from him after the meeting. 17 Well. I am asking you now long after it was purchased 18 if you can tell us? Was it a day, or five days, or a 19 20 month, or what? 21 I would say it was later that afternoon. A 22 The same day? 23 Yes. You purchased it at what part of the day? In the 24 morning or the afternoon or the evening?

A I am trying to think. I believe it was late morning. 1 All right. Now, when you left the shop, wherever you 2 and he purchased it, the tape was in Mr. Williams 3 possession? 4 That is right. 5 And then there came a time when he gave it to you? 6 That is correct. 7 Would that have been later that same day? 8 That is correct. 9 And this is now, what the evening, or when did you get 10 it? 11 Late afternoon, I would say. A 12 Late afternoon. And then you kept it at your apartment 13 for a week or a week and a half? 14 That is correct. 15 And then , what did you do with it? 2 16 I gave it to Mr. Calder. A 17 And where did that transaction take place, giving it Q 18 to Mr. Calder? 19 In New York. A 20 In New York City? 21 A Yes, sir. 22 And where in New York City? 2 3 In Manhattan. 24 Well, was this at somebody's office or out on the street Q 25

1	on a corner, or what?
2	A It was in his office.
3	Q In his office?
4	A That is correct.
5	All right. Now, had you ever had any had you had
6	any conversation with Mr. Calder with reference to
7	purchasing this tape, in the first instance?
8	A No, sir.
9	Q Or having a tape available for any purpose?
10	A No, sir.
11	Q Up to the time that your turned it over to Mr. Calder
12	at the office in New York City, had you and he ever
13	talked about that tape?
14	A No, sir.
15	MR. SHANAHAN: I think that that is all.
16	THE COURT: Redirect.
17	RE-DIRECT EXAMINATION
18	BY MR. CHALENSKI:
19	Q Mr. Josephson, I show you Government's Exhibit number
20	twenty-five for identification (offering), and have
21	you ever seen that form before? Please turn the last
22	page of that form on the reversed side of it, the
23	fourth page.
24	MR. SHANAHAN: I am sorry, but we can't
25	hear your questions.

1	BY MR. CHALENSKI:	
2	Q Looking at the last page of Government's Exhibit number	
3	twenty-five, do you recognize the signature on that	
4	page?	
5	A Yes, sir.	
6	Q What is the signature?	
7	A Ted Bell's signature.	
8	Q And Broome County Aviation, Inc., letterhead?	
9	A That is correct.	
10	Q Excuse me but the Commuter Airlines, Inc., letterhead?	
11	A That is correct.	
12	Q And are these notices in the customary form which	
13	Commuter Airlines gave to the pilots and co-pilots?	
14	A That is correct.	
15	MR. CHALENSKI: I offer Government's	
16	Exhibit number twenty-five into evidence. (Offering	
17	to Counsel).	
18	MR. SHANAHAN: Did you call his	
19	attention to some particular part of it?	
20	MR. CHALENSKI: The last page; the fourth	
21	page.	
22	MR. SHANAHAN: Well, Your Honor, I admit -	-
23	I don't understand this, but it doesn't appear to me	
24	to have any materiality, and I object to it for that	
05	maggn	

1	MR. RICHARDS: I join with that.
2	THE COURT: Are you limiting your offer
3	to paragraph twenty-one?
4	MR. CHALENSKI: At the present time,
5	Your Honor.
6	THE COURT: Overruled.
7	MR. SHANAHAN: Paragraph what?
8	THE COURT: Well, it is number one in
9	parentheses.
10	MR. SHANAHAN: May I see that?
11	THE COURT: Bearing that in mind in your
12	cross examination.
13	MR. CHALENSKI: May I read paragraph one,
14	Your Honor?
15	THE COURT: Yes.
16	MR. CHALENSKI: Well, Exhibit twenty-five
17	is on the letterhead of Commuter Airlines, Inc., and it
18	is a memorandum to all flight crews from T.E. Bell ,
19	Chief Pilot, dated September 5, 1974.
20	It deals with various subjects, the
21	first of which is 'inadvertent over-duty.' It says:
22	'(1) Crews are reminded on inadvertent
23	over-duty. Time situations that, if it becomes obvious,
24	are after normal office hours become your responsibility
25	to communicate the problem. This does not mean leave

a note in the book and to h --- with it. The first 1 choice is, if there is someone of similar equipment 2 qualification who is duty-eligible, simply call him and 3 set it up. If you have a problem with that, call me. (Obviously, I would prefer that you work it out and leave 5 me a note.) ' 6 BY MR. CHALENSKI: Mr. Josephson, you were fired on October 4, 1974, is 8 that correct? 9 The 3rd or the 4th, that is correct. 10 And you told us at that time that one of the reasons was 11 because you were incompatible with the office help? 12 That is correct. A 13 Q And had you ever been told that prior to October 4th. 14 1974, by any management at Commuter Airlines? 15 A No, sir. 16 Did anyone, prior to October 4th, 1974, ever complain 17 about your radio procedures? 18 A No, sir. 19 Q You mentioned that one of the pilots said to take care 20 of the Canada Air volume during 1974 and you didn't 21 remember the specific dates, but you recall the approxi-22 mate time that that was mentioned to you? Do you recall 23 how long it was before you were fired? 24

No, I don't recall.

A

1 Q Would it have been earlier or in late 1974? I would say late 1974. 2 Would it have been within a month of the time that you 3 were fired? A It is possible. When you arrived at the meeting of October 2nd, 1974, you observed Alex Calder and Bob Slough when you came in, and you said that? 8 Yes, sir. A And what did you then do next? 10 I was introduced to Alex Calder. 11 And then what? 12 Then at that point, pilots were coming in, and I sat A 13 down. 14 Did you have any conversation with anybody at that point? 15 I might have spoken to Alex Calder a little longer after 16 we were introduced. 17 MR. SHANAHAN: Pardon me, but would you 18 repeat the answer? 19 THE WITNESS: I might have spoken to Alex 20 Calder after we were introduced. 21 BY MR. CHALENSKI: 22 Do you recall speaking with anybody else? 23 Well. Bob Slough was there. 24 You do recall speaking with Bob Slough, or not? 25

1	A I don't really remember, but you know, he was there
2	and it is probable that I spoke with him.
3	Where were Bob Slough and Alex Calder in relation to y
4	for the initial period of time after you arrived at th
5	meeting?
6	A Well, they were together in the room.
7	Q Where were they in relation to you?
8	A In front of me.
9	Q How close?
10	A A handshake distance.
11	MR. SHANAHAN: I can't hear you.
12	THE WITNESS: A handshake distance.
13	BY MR. CH ALENSKI:
14	Q Were other pilots within that distance?
15	A No.
16	Q They were further away?
17	A I believe so. I am trying to remember. More or less
18	scattered around the room.
19	Mr. Slough, on cross examination by Mr. Richards, you
20	were asked if you discussed the reasons why you though
21	that you were fired by Winston. Could you please tell
22	the jury why you thought that you were fired by Winsto
23	A You said, Mr. Slough?
24	Q On cross examination by Mr. Richards, you were asked
25	a question: did you discuss the reasons why you though

1	that you were fired by Winston. I am asking you now to
2	tell the jury why you thought that you were fired by
3	Winston?
4	MR. RICHARDS: I am going to object. The
5	question was what he told the F.B.I. agent at the time
6	of the investigation.
7	MR. CHALENSKI: The question was: did you
8	tell the F.B.I. agent why you thought that you were fired
9	THE COURT: I will overrule that.
10	BY MR. CHALENSKI:
11	Q Please tell the jury why you thought that you were fired
12	by the Defendant, Winston, Mr. Josephson?
13	A Because it was the close relationship with our union
14	activities.
15	MR. SHANAHAN: Would you repeat that for
16	me.
17	(The previous answer was read by the
18	Reporter.)
19	THE COURT: That is not what you told
20	the F.B.I.?
21	THE WITNESS: Well, we had a meeting the
22	night before , yes
23	THE COURT: (Interrupting) But that is
24	not what you told the F.B.I.? You didn't tell the
25	F.B.I. that you were fired because of your union

1	activities?
2	THE WITNESS: No, sir.
3	THE COURT: You told them something
4	different?
5	THE WITNESS: I told him exactly what
6	Ted Bell and Jerry Winston had said to me.
7	BY MR. CHALENSKI:
8	Q Mr. Josephson, I am going to read from that same F.S.I.
9	report that Mr. Richards read from, and tell me if this
10	is an accurate statement of what you told the F.B.I.
11	'Josephson stated that during this
12	confrontation
13	MR. RICHARDS: (Interrupting) What page.
14	MR. CHALENSKI: That is page two.
15	'stated that during the confrontation,
16	the Chief Pilot, Ted Bell, had stated that his flying
17	was not up to par. But Josephson responded that if he
18	was being considered for a position as a full captain
19	by the airline, why now, did they make the allegation
20	that he is not up to par as a pilot. Josephson stated
21	that Winston had also alleged that he, Josephson, was
22	a playboy, and going and coming on weekends at which
23	time Josephson responded that if he was not scheduled
24	for the weekend what he did on his own time did not

matter to the company officials. Josephson stated

	16
1	another reason why Winston was firing him was the fact
2	that he was not getting along with the secretaries.
3	Josephson responded, stating that he was hired to fly
4	airplanes, and not to be friendly with the secretaries
5	of Commuter Airlines.'
6	BY MR. CHALENSKI:
7	Q Is that an accurate report of what you told the F.B.I.
8	on June 6th, 1975?
9	A That is correct.
10	MR. CHALENSKI: Thank you, and that is
11	all of the questions I have.
12	MR. SHANAHAN: May I see Exhibit twenty-
13	five again, please?
14	MR. CHALENSKI: Yes. (Offering).
15	RE-CROSS EXAMINATION
16	BY MR. SHANAHAN:
17	Q Mr. Josephson, on Exhibit twenty-five, I see that the
18	name written on the top reads Williams, and does that
19	mean that this is something that was addressed to
20	Mr. Williams?
21	A No, he probably got it and put his name on it. Each
22	time you get a copy, they put it in the mailbox and
23	put a name on it.
24	Q Is this something that you received a copy of?
25	A Yes, it is a possibility. I have probably had that in

	II	
1		my mailbox. Yes, sir.
2	Q	Do you recognize it as anything that did or that was
3		directed to you and that you did receive?
4	A	Yes, sir.
5	Q	Well, then, it was more than a possibility that you may
6		have gotten it. You did get it, would that be right?
7	А	Yes, sir.
8	Q	And in connection with your being discharged by Mr. Bell,
9		were you ever charged by him with anything known as
10		over-duty?
11	А	No.
12	Q	What he was complaining about was the you had not
13		performed what duties had been assigned to you, isn's
14		that right?
15	A	Would you say that again, please?
16	Q	What he was complaining about to you, in connection with
17		your discharge, was that you were not performing the
18		duties that were assigned?
19	A	More or less correct.
2.5	Q	Not that you were overworking?
21	A	Well, if you are thinking about, you know, the schedule
22	-	changes and all that had to be done, due to going into
23		overtime.
24	Q	But this i advertent over-duty that is the subject of
25		the first paragraph here, what Ses the inadvertent
	THE RESERVE OF THE PROPERTY OF THE PERSON NAMED IN	

1		over-duty mean to you?
2	A	
-	^	Well, flying over your flight time duties.
3	2	Flying over your flight time duties?
4	A	Yes, sir.
5	Q	And would that mean that, for instance, a flight might
6		not return to the home base within the number of hours
7		that you are supposed to work a day?
8	A	That is correct.
9	Q	Is that what that would mean. If a return flight were
10		late coming from New York to Binghamton, and you were
11		consequently late in arriving at Binghamton, might that
12		be an example of inadvertent over-duty hours?
13	A	That is also correct.
14	ą	I beg your pardon?
15	A	That is also correct.
16		MR. SHANAHAN: Thank you. That is all.
17		MR. CHALENSKI: I have no re-direct,
18		Your Honor.
19		THE COURT: You are excused.
20		(Whereupon, the witness was excused.)
21		THE COURT: We will take a short recess.
22		(Whereupon, the jury was excused.)
23		THE CLERK: Court stands for a short
24		recess.
25	•	(After a short recess, the proceedings

1		were resumed before the Court and the Jury.)
2		MR. CHALENSKI: Call Mr. Michael Baan.
3		MICHAEL BAAN
4		Called as a witness, being first duly sworn, was
5		examined a 'testified as follows:
6		DIRECT EXAMINATION
7	BY M	R. CHALENSKI:
8	Q	where do you reside
9	A	In Fort Lauderdale, Florida.
10	Q	And what is your occupation?
11	A	A pilot.
12	Q	And how long have you been a pilot?
13	A	For about eight or ten years, now.
14	Q	And were you employed by the Defendant in this action,
15		Broome County Aviation? And Commuter Airlines, Inc.?
16	A	Yes, sir.
17	ಎ	And do you recall the dates of that employment?
18	A	Oh, I think it was approximately the second week in
19		September, until about the first week in October.
20	Q	Were you present at a meeting of the employees of the
21		Defendant at the Holiday Inn, Vestal Parkway, in Vestal,
22		New York, on Occober 2nd, 1974?
23	A	Yes, sir.
24	Q	And do you recall the date that meeting was held?
25	A	I believe it was October 2nd, a Tuesday night, if I am

1	not mistaken.
2	Q I show you Defendant Exh C, which is a copy of a
3	request for employee ray sentation election and have
4	you ever seen a card resembling that? (Offering)
5	A Yes, sir.
6	And under what circumstances did you see that card?
7	A If I remember correctly, it was at the meeting that you
8	are talking about.
9	Q I am sorry.
10	A At the meeting that we are talking about.
11	And what did you do with the card?
12	MR. SHANAHAN: I am sorry, would you read
13	the last answer to me.
14	(The previous answer was read by the
15	Reporter.)
16	MR. SHANAHAN: I would appreciate it if
17	you would please keep your voice up.
18	BY MR. CHALENSKI:
19	Q Do you recall what you did with that card, if anything,
20	at that meeting?
21	A Again, if I recall correctly, I believe I filled it out
22	at that time, and left it there. I don't remember
23	anything else.
24	Q What is your understanding of the meaning of your
25	filling this card out?

The way it was explained to me was that it was strictly 1 a request that, yes, I would or would not be interested 2 in union representation, and in seeing what the union 3 had to say, or what they could do for the pilots. Do you recall speaking at that meeting? Q 5 A Yes, sir. 6 And for how long did you speak? 0 7 Oh, three or four minutes, something like that. A 8 And do you recall what you said? 9 Well, I just related to the group of pilots who were A 10 at the meeting that I had gone through a similar 11 negotiation by the Teamsters in Houston, Texas, with 12 Metro Airlines, and I just pointed out a law things 13 which I had noticed had taken place there, and the 14 duration of the negotiations, and et cetera, and that 15 they hadn't gotten much out of the representation. 16 Did there come a time when your employment with Commuter 17 Airlines terminated? 18 Yes, that was the morning after the meeting. 19 And can you describe the circomstances of that termination Q 20 for the jury? 21 22 I was called over to Ted Bell, the Chief Pilot's desk. and he said that I was being terminated because as that 23 time they felt that they didn't need my services, that 24

25

they didn't have the planned growth that they planned

1	when I was hired, and I wasn't needed.
2	MR. SHANAHAN: Could I have that answer
3	read back.
4	(The previous answer was read by the
5	Reporter.)
6	BY MR. CHALENSKI:
7	Q You were hired about three weeks previously?
8	A Yes, that is when I started.
9	MR. CHALENSKI: That is all of the
10	questions I have.
11	THE COURT: Cross examination.
12	CROSS EXAMINATION
13	BY MR. RICHARDS:
14	Q Do you recall that a pilot by the name of Captain
15	Herrington was there?
16	A He could have been. I don't really remember.
17	You probably didn't have a chance to get to know most
18	of the men in your short stay there, is that correct?
19	A I am sorry?
20	Q Did you know Mr. Herrington?
21	A I had flown with John a couple of times, yes, sir.
22	Q And how did you receive notice of the meeting?
23	A I honestly don't remember who had mentioned the meeting
24	to me. It was perhaps in a group. I don't remember,
25	really.

1	Q	And in regard to your employment, were you required to
2		have more checkout procedures as far as flights, by the
3		company?
4	A	Well, I don't know. Kind of my training with the
5		company, kind of just ambeled on. There was no real
6		sense of direction. I didn't fly that much. I didn't
7		go no too many flights, and I believe at one time I
8		did have a check ride on the Navajo.
9	2	What I am trying to ask here: were you still in training
10		with the company?
11	A	I said nothing was ever said one way or the other. I
12		would assume yes, because I had never flown any line
13	1.	trip, you know.
14	٩	Had you been checked out on all of the aircraft operated
15		by the company?
16	A	No, sir, I hadn't.
17	Q	Did the company advise you at the time that you were
18		nired that you would have to be checked out on all of
19		the aircraft that they operated?
20	A	I don't know if it was specifically stated, but I believe
21		it was indicated, yes.
22	9	Who did you talk with when you were hired by the company?
23	А	Ted Bell.
24		MR. RICHARDS: I have no further
25		questions.
THE RESERVE OF THE PARTY OF THE	The second secon	

1 BY MR. SHANAHAN: Mr. Baan, I take it from what you told us here, that 2 you were employed a total of about three weeks? 3 Yes, sir. Let me ask you: when you were hired was there some 5 talk about a probationary period? Not that I recall, no, sir. 7 You have no recollection one way or the other? 8 9 Right. 10 And while you were working for Commuter were you based at Binghamton or Elmira? 11 Binghamton. 12 And your position was at that time, of a co-pilot? 13 No, sir, I was hired as a captain. 14 A You were hired as a captain? 15 That is right. I had flown a few trips, flying as a 16 F. co-pilot, and a couple of other trips I believe on the 17 left seat, yes. 18 I didn't catch what you said. 19 well, some on the right seat, and some over on the left 20 side. 21 And the right seat is the co-pilot's? 0 22 Yes, and the other side is Captain. 23 And the other side is the captain or the pilot, is that 24

25

the situation?

A Yes.

3

18

19

20

- Now, on the occasion that your employment was terminated, that was done, as I understand it, in a talk with Mr.
- 4 Bell?
- 5 A Yes, sir.
- 6 Q And that took place on October 3rd?
- 7 A Yes, sir, I believe that was the date.
- 8 2 I beg your pardon?
- 9 A I believe that was the date.
- And he told you, at that time, that they did not require
 your service because some anticipated growth had not
 developed, did I get that correctly?
- 13 A Yes, sir.
- Now, was there some talk between you and Mr. Bell at that time with reference to a particular contract that Commuter had, that had, at that time, been either cancelled or was about to be cancelled?
 - A Sir, I don't know whether a specific contract or anything was mentioned. I just remember that it was a planned growth thing, and I don't know whether a contract was mentioned or not.
- 22 I take it that you don't recall specifically the language 23 or the express words that he told you, is that it?
- 24 A Yes, sir.
- 25 Q Would that be right?

1	A Yes, sir, it would be.
2	MR. SHANAHAN: That is all.
3	MR. RICHARDS: Excuse me, Your Honor,
4	but we were just handed a statement.
5	MR. SHANAHAN: Your Honor, in view of
ű	that, I may have a question of two.
7	MR. CHALENSKI: May I be excused for
8	thirty seconds, to get a document?
9	THE COURT: Yes.
10	(Whereupon, the proceedings were recessed
11	for a short time.)
12	BY MR. RICHARDS:
13	Q Mr. Baan, at the time that you were terminated, was
14	there any mention of union activity by either Mr. Bell
15	or Mr. Winston?
16	A No, sir, there was not.
17	MR. RICHARDS: I have no further questions
18	- Your Honor.
19	THE COURT: Are you through with this
20	witness?
21	MR. CHALENSKI: No, I have two exhibits
22	that I want to introduce.
23	RE-DIRECT EXAMINATION
24	BY MR. CHALENSKI:
25	Q Mr. Baan, I show you Government's Exhibit number twenty-

1	six for identification, and can you tell the jury what
2	that document is (offering)?
3	A It appears to be a check ride given by Ted Bell to myself
4	well, a couple of airplanes flights number
5	MR. SHANAHAN: Excuse me, but keep your
6	voice up. Check ride given what?
7	THE WITNESS: To myself. It says initial
8	equipment check line check I believe it is but I don't
9	know. Just a minute. Initial equipment co-pilot for
10	line something, Beech C47A and Dumont, I believe it says.
11	BY MR. CHALENSKI:
12	Q Did that show you that you passed the check ride as co-
13	pilot for that plane?
14	A Yes, it does.
15	And that was on September 19th, 1974?
16	A That is correct.
17	Now, I hand you a similar form containing different
18	notations, as Government's Exhibit twenty-seven, and
19	does that also show that you passed a check ride on
20	September 19th, 1974 with reference to a plane (offering)
21	A Yes, sir, it does.
22	Q And what plane is named on that form?
23	A TPA-31.
24	MR. CHALENSKI: I offer Government's
25	Exhibit number twenty-six and number twenty-seven in

1	evidence.(Offering to Counsel)
2	MR. RICHARDS: May I ask a preliminary
3	question of the witness?
4	THE COURT: Yes.
5	VOIR DIRE EXAMINATION
6	BY MR. RICHARDS:
7	Showing you Exhibit twenty-six and twenty-seven, if
8	you recollect these, weren't you being checked out
9	as a co-pilot at the time that those flight tests
10	were iven to you?
11	A Sir, on one it does say specifically co-pilot, and
12	on the other I cannot make out the indication whatsoever.
13	Perhaps you could clarify it for me.
14	And you were hired, I . lieve you earlier testified,
15	as a pilot, by Commuter?
16	A That is correct.
17	MR. RICHARDS: I have no objection.
18	MR. CHALENSKI: I have no further
19	questions.
20	THE COURT: You are excused.
21	(Whereupon, the witness was excused.)
22	THE CLERK: Gove nment's Exhibit
23	twenty-six and twenty-seven, received in evidence.
24	(Government's Exhibit number twenty-six
25	for identification, received in evidence.)

1	(Government's Exhibit number twenty-seven
2	for identification, received in evidence.)
3	MR. CHALENSKI: For the next witness,
4	the Government calls Mr. Alexander Calder.
5	ALEXANDER CALDER
6	called as a witness, being first duly sworn, was
7	examined and testified as follows:
8	DIRECT EXAMINATION
9	BY MR. CHALENSKI:
10	a Mr. Calder, where do you reside?
11	A In New York City.
12	And by whom are you employed?
13	A By the airline and Aero-space Employees Union, Teamsters
14	Local 732.
15	And what position do you occupy with that union?
16	A I am a Business Representative.
17	And now long have you been occupying that position with
18	that union?
19	A sopresimately since 1965 or 1966.
20	Q Could you briefly describe your duties in that position?
21	A My principle function is servicing companies and
22	employees that we have organized, and my supplementary
23	function, principle as of more recent years, is
24	organizing activities.
25	Q Did you have occasion to become involved in organization

1	-	activities with reference to Broome County Aviation, Inc.
2		and Commuter Airlines, Inc.?
3	A	Yes.
4	Q	And when did that happen?
5	A	The first recorded instance of my contact with Broome
6		County Aviation was the 26th of September, 1974.
7	Q	And what did that communication involve?
8	A	Response to a phone inquiry from a pilot with Broome
9		County Aviation, down to the Teamsters: office in New
10		York City.
11	Q	And do you know the name of the pilot that called you?
12	Ä	Robert Sleugh.
13		THE COURT: Robert who?
14		THE WITNESS: Robert Slough.
15	BY N	IR. CHALENSKI:
16	વ	Did you have occasion to attend a meeting of the employees
17		of Broome County Aviation, Inc., during the first week
18		of October, 1974?
19	А	Yes.
20	N 1 €	And do you recall the date of that meeting?
21	A	The 2nd of October, into the 3rd.
22		MR. SHANAHAN: What was the answer?
23		(The previous answer was read by the
24		Reporter.)
25	BY N	R. CHALENSKI:

.

7 ·

1	Q	What time did that meeting start?
2	A	Approximately eight p.m.
3	6	October 2nd?
4	A	That is correct.
5	Q	And by continuing into the 3rd, you mean into the early
6	,	morning?
7	A	Past midnight, that is correct.
8	Q	During the course of that meeting, did you acuress the
9		persons who were present?
10	А	That is correct.
11	Q	And do you recall mentioning any names during the course
12		of your address?
13	А	I did.
14	Q	And do you recall the names of any persons that you
15		mentioned?
16	А	The persons' names that I mentioned were principle
17		organizers of the meeting, in conjunction with myself.
18	Q	And do you recall the specific names?
19	А	No, because there were more than one.
20		MR. RICHARDS: I did not hear the last
21		answer.
22		THE COURT: No, because there was more
23		than one.
24	BY I	MR. CHALENSKI:
25	Q	Was Robert Slough an organizer?

1	A	Yes, sir.
2	2	And was Ira Josephson an organizer?
3	A	Yes, sir.
4	2	Now, subsequent to that date there was an election
5		conducted by the National Mediation Board, when your
6		union was certified as a bargaining representative
7		for Broome County Aviation and Commuter Airlines, is
8		that correct?
9	A	That is correct.
10		MR. CHALENSKI: May I have this marked.
11		THE CLERK: Government's Exhibit number
12		twenty-eight, marked for identification.
13		(Document marked Government's Exhibit
14		number twenty-eight, for identification.)
15	BY .	MR. CHALENSKI:
16	ą	Now, I hand you Government's Exhibit number twenty-eight
17		for identification, and it is a copy of a letter from
18		Broome County Aviation dated December 23rd, 1974, and
19		it is to the
20		MR. SHANAHAN: (Interrupting) What was
21		the date?
22	BY 1	MR. CHALENSKI:
23	Q	Was 1t dated December 23rd?
24	A	Yes, sir.
25	Q	And did you receive the original of that letter, in your

1		capacity as an employee of the union?
2	A	The letter is addressed to my principle office, Secretary-
3		Treasurer of the local. It passed through his hands and
4		then ended on my desk.
5	Q	And I show you Government's Exhibit number twenty-nine
6		for identification, and can you tell the jury what that
7		document 3? (Offering)
8		(Document marked Government's Exhibit
9		number twenty-nine, for identification.)
10	A	It is a letter addressed to the principle office of the
11		Local, which again ended on my desk, and it is a letter
12		from Mr. Winston, President of Broome County Aviation.
13		MR. SHANAHAN: In connection with that,
14		could we have the date of the letter?
15		MR. CHALENSKI: I am offering them into
16		evidence, now, Your Honor.
17		MR. RICHARDS: I object to the introduction
18		of them because of the immateriality.
19		THE COURT: May I see them?
20		MR. CHALENSKI: Yes.(offering)
21		THE COURT: Overruled.
22		MR. CHALENSKI: Thank you, Your Honor.
23		THE CLERK: Government's Exhibit number
24		twenty-eight and Exhibit number twenty-nine, received
25		in evidence.

1		(Government's Exhibit number twenty-eight
2		for identification, received in evidence.)
3		(Government's Exhibit number twenty-nine
4		for identification, received in evidence.)
5	ВУ	MR. CHALENSKI:
6	Q	Mr. Calder, I am handing you Government's Exhibit number
7		twenty-four for identification, which is a tape cassette,
8		and I ask you if you have ever seen that cassette before?
9		(Offering)
10	A	Yes, sir.
11	4	When did you see it?
12	A	Subsequent to the 5th of October, 1974.
13	-	There is writing contained on both sides of that cassette
14		is that your writing?
15	A	It is.
16 .	Q	And can you read the writing to yourself?
17	A	Yes, sir. On one side it reads, 'Five, October, '74.
18		Jerry Winston, President Commuter Airlines, Incorporated,
19		meeting with co-pilots.'
20	લ	And is there any other writing of yours on that cassette?
21	A	Yes, sir. Side two reads, 'Five, October, '74, Co-pilots
22		meeting with Ted Bell, Chief Pilot, Commuter Airlines.'
23	Q	Mr. Calder, did that tape ever come into your possession
24	A	Yes, it did.
25	Q	Under what circumstances did it come into your

1		possession?
2	A	It was delivered to me by a pilot, by a former pilot
3		of Broome County Aviation.
4	6	And do you know the former pilot's name?
5	A	Yes, sir.
6	Q	And what is it?
7	A	Ira Josephson.
8	Q	And do you recall the date that he delivered it to you?
9	А	Not exactly, sir.
10	Q	And what is your best recollection of the date?
11	А	Soon after five, October, 1974.
12	Q	And by soon, you mean weeks or days?
13	A	I would estimate a week to ten days. I am not certain
14		of the exact date.
15	Q	And what did you do with the tape after it was delivered
16		to you?
17	A	I played it.
18	Q	And then what?
19	А	I put it in my desk drawer.
20	Q.	And did there come a time when you gave up possession
21		of the tape?
22	А	Ultimately, yes.
23	Q	And when did that take place?
24	A	When an agent of the Federal Bureau of Investigation
25		called me to inquire whether I had possession of such

1	a tape.
2	And did you give this tape to an F.B.I. agent?
3	A Yes, in his office.
4	And do you recall the date that that took place?
5	A Well,
6	THE COURT: (Interrupting) What difference
7	does that make, if he can identify the tape, and the
8	contents of the tape accuately? You don't need to show
9	it.
10	MR. CHALENSKI: Thank you, Your Honor.
11	BY MR. CHALENSKI:
12	There are some telephone messages recorded on this tape,
13	Mr. Calder. Can you explain how those telephone messages
14	got on this tape?
15	A Yes, sir.
16	Flease tell the jury how they got on it.
17	A I had occasion to call two former pilots of Broome County
18	Aviation, a James McKinley, and a Bill Ferber. I was
19	unsuccessful in reaching them. I had the tape onto call -
20	I had the intent to record the conversation that I would
21	perhaps elicit from Mr. McKinley and Mr. Ferber, relative
22	to what I understood to be a coercion of the company
23	MR. SHANAHAN: I move to strike that
24	characterization.
25	THE COURT: Strike that.

1	BY MR. CHALENSKI:
2	Q Why did you use the tape recorder to record those
3	conversations?
4	A I had no other tape.
5	Q And in making recordings on this tape, did you record
6	over any portion of it that had been recorded before?
7	A No, sir.
8	Q Did you find a blank spot on that tape to make the
9	recordings on that blank spot?
10	A I did, sir.
11	THE COURT: When did you last listen to
12	this tape?
13	THE WITNESS: Tuesday, sir.
14	THE COURT: Last Tuesday?
15	THE WITNESS: This Tuesday.
16	THE COURT: And what you heard actually
17	recorded is what took place at that meeting on October
18	3rd, 1974?
19	MR. CHALENSKI: The witness was not at
20	the meeting that was taped, that the recording was made.
21	I will put in another witness for that.
22	THE COURT: All right.
23	MR. CHALENSKI: That is all of the
24	questions I have. Thank you.
25	THE COURT: Cross examination.

	11	
1		CROSS EXAMINATION
2	BY I	MR. RICHARDS:
3	Q	Mr. Calder, if I understand your direct testimony,
4		correctly, you were called by Robert Slough from Commuter
5		Airlines, is that correct?
6	A	That is correct, sir.
7	Q	And it was earlier in the week of October 3rd or the 2nd?
8	A	We had many conversations during that week. We had
9		many conversations subsequent to the 26th of September.
10	Q	That was the first that you heard from Robert Slougn?
11		THE COURT: He said the first time was
12		September 26th?
13	BY :	IR. RICHARDS:
14	Q	How many telephone conversations did you have with Mr.
15		Slough between September 26 and Octber 2nd or 3rd, 1f
16		you can remember?
17	A	Numerous is the best way I can give you.
18	Q	Did you you indicated earlier in your direct
19		testimony that Slough, Josephson, were some of the
20		organizers for the union, is that correct?
21	A	That is not precise, sir. They were not to be organizer:
22		They were organizers of their own initiative.
23	Q	And when were they appointed organizers?
24	A	We do not appoint organizers, sir.
25	Q	And when were they designated as organizers?

.

- 11	
1 A	They were not designated as organizers. They were
2	organizers on their own initiative, and made approaches
	to my organization for assistance.
ବ	And as organizers, what was their duty and responsibilities?
A	To organize as they and their colleagues saw fit.
Q	Was Josephson ever notified that he was an organizer?
A	I repeat, sir, we do not notify people that they are
	organizers.
Q	Did you have any conversations with Josephson at that
	meeting?
A	Which meeting, sir?
Q	The meeting of October 2nd or 3rd?
A	Absolutely.
Q	And how long had you estimated that you talked with them?
Α	Addressing the audience, sir?
2	No, private conversations with Josephson?
A	To my recollection, sir, there were no private conver-
	sations in the meeting of October 2nd.
	THE COURT: Were you at the meeting of
	October 2nd?
	THE WITNESS: Yes, Your Honor.
	THE COURT: Didn't you just tell me that
	he wasn't?
	MR. CHALENSKI: No, the tape recording
	is of a meeting of October 5th.
	GAGA Q AQAQ

1		THE COURT: Oh, this is a different	
2		meeting, I am sorry, all right.	
3	BY	MR. RICHARDS:	
4	Q	Did you have any private conversations with Josephson	
5		regarding his interest in the union; the Teamsters, that	
6		is?	
7	А	We had an open forum meeting for the duration of the	
8		October 2nd meeting. Whether I said two or three words	
9		privately to some individual, I cannot now state.	
10	Q	Did you have any conversation with Josephson as to his	
11		interest in the Teamsters Union that evening?	
12	A	Absolutely.	
13	Q	Lid he indicate to you that he was in support of the	
14		Teamsters representing the pilots that evening?	
15	А	You can count on it, yes, sir.	
16	9	He did say that? Did he say that before you were	
17		addressing the group or after?	
18	А	Concurrently.	
19	Q	Did he say this so it could be heard by other persons	
20		in the room?	
21	А	There was a great deal of forthrightness from the pilot:	
22		THE COURT: (Interrupting) You are not	
23		answering the question.	
24		THE WITNESS: Would you please repeat	
25		the question?	
			4

1	THE COURT: Listen to the question, and
2	then answer, please.
3	BY MR. RICHARDS:
4	When Mr. Josephson indicated his interest in the union,
5	did he speak out so it could be heard by others in the
6	room?
7	A Yes, sir.
8	Q Did he also indicate to you or to the group the amount
5	of interest he had in the Teamsters, and what type of
10	work he had wanted to do for the Teamsters?
11	A That is my recollection, sir.
12	Q And would you kindly tell me if you can recall what he
13	said?
14	A I cannot quote him verbatum.
15	THE COURT: Nobody asked you verbatum.
16	He said as best you can remember what was the substance
17	of what he said?
18	THE WITNESS: There was a general concensus
19	THE COURT: (Interrupting) What did he
20	say?
21	THE WITNESS: I cannot quote him, Your
22	Honor.
23	THE COURT: I am not asking you to quote.
24	What did he say, to the best of your memory?
25	THE WITNESS: The sense given that I

1	recall at that time was that he was local for a move
2	toward the union.
3	BY MR. RICHARDS:
4	a now, before you attended that meeting did you have any
5	idea as to the number of employees who were interested
6	in having the Teamsters represent them?
7	A Not the number, but a number prior to the 2nd of October,
8	sir.
9	And what was that number what was the number of pilots
10	that you knew supported the Teamsters to reprsent them?
11	A The information given to me by telephone indicated that
12	there were perhaps upwards of twelve at that time.
13	And was that information given to you by Robert Slough?
14	A Among others.
15	And did you have a list of these pilots who supported
16	the Teamsters before you went to the meeting that night?
17	A by a list, you mean to say a written list, sir?
18	Q Of those supporting the union?
19	A No, sir, I did not have a written list at that time.
20	Did you file an application with the National Mediation
21	Board seeking representation status on October 2nd, 1974?
22	A I cannot say that date is correct, sir, but a petition
23	was filed with the National Mediation Board.
24	Q Was that petition filed prior to the meeting?
25	MR. CHALENSKI: The petition is in

1		rvidence.
2		MR. RICHARDS: We don't have it.
3		MR. SHANAHA : I think it is Exhibit
4		three.
5	BY M	R. RICHARDS:
6	Q	Mr. Calder, I show you Government's Exhibit three and ask
7		you, which is already in evidence and ask you if you
8		had anything to do with the filing of that petition?
9	A	I did, sir.
10	Q	And is that a petition to the National Mediation Board
11		identifying a representational dispute at Commuter
12		Airlines?
13	А	That is correct, sir.
14	Q	And that petition is signed by whom?
15	A	It bears the name of the President of the Local of 732.
16	۹	And what is the date of that petition?
17	А	The 2nd of October, 19 4.
18	٩	Now, my question to you is: was that petition filed
19		before you went to the meeting that you have earlier
20		testified to?
21	A	No, sir.
22	Q	Do you know when that petition was filed?
23	A	Yes. As a result of the meeting of the 2nd of October
24		we had gained authorization cards sufficient to properly
25		petition the National Mediation Board for the election.

1		At that juncture, I had the draft prepared.
2	2	Now, you identified Josephson and Slough as organizers,
3		and were there any other pilots who were in attendance
4		that night whom you were designating as organizers?
5	A	I repeat, sir: we never designate organizers within a
6		company. We will show them the way, but they will act
7		on their own initiative.
8	Q	At that meeting, Mr. Calder, did you distribute cards
9		similar to Defendant's Exhibit C?(Offering)
10	A	That is correct, sir.
11	à	And did you request the persons who were in attendance
12		at that meeting to sign the cards?
13	A	That is correct, if they saw fit.
14	-	And were these cards being signed in the presence of
15		each other?
16	À	That is correct, sir.
17		MR. RICHARDS: I have no further questions
18	BY :	GR. SHANAHAN:
19	Q	Mr. Calder, did you end up, following this meeting of
20		October 2nd at the Holida Inn, in Binghamton with a
21		list of the people who attended that meeting?
22	A	I may have. I am not certain, sir.
23	Q	I take it from that answer that you don't have any
24		such list with you at the present time?
25	A	That is correct, sir.

- 1 So that you would probably not be able to give us the names of the various people who were present at that 2 meeting? 3 Not with certainty that the list would be complete, sir. 4 iow, I assume that except for perhaps a couple of people 5 that you had talked to on the telephone, that when you 6 7 arrived at that meeting that night, all of these people were strangers to you, wouldn't that be correct? 8 I believe that to be correct, sir. 9 And now, this meeting you have indicated lasted a matter 10 of some perhaps three or four hours? 11 That is correct, sir. 12 Would that be so. It finished some time in the early 13 morning of October 4th? 14 No, October 3rd, sir. 15 Oh, October 3rd. I beg your pardon. It started some 16 time in the evening of October 2nd and it went past 17 midnight into October 3rd? 18 That is correct, sir. 19 Would that be right. All right, sir. Now, at the time 20 that this meeting was over, I assume that you had in your 21 possession, then, these yellow cards that had been signed 22 by the various people that were present at the meeting? 23
 - U.S. COURT REPORTERS FEDERAL BUILDING ALBANY, N. Y.

And I notice that the form of this exhibit would appear

That is correct, sir.

24

25

1		to be a card that might be mailed, but would I understand
2		correctly that these were personally delivered to you
3		by the people who were present, and you left this
4		meeting with them in your possession?
5	A	That is correct, sir.
6	Q	Would that have been the only record that you had, then,
7		of the names of the people who were present at the
8		meeting?
9	A.	Probably, sir.
10	Q	And do you have, by any chance, that information here
11		with you today?
12	A	I am not sure that I understand your question?
13	Q	Do you have the cards that were signed that night, here
14		with you today?
15	А	No, they are turned over to the National Mediation Board
16		to justify the call for an election.
17	â	Then you don't have any list of the people that signed
18		those cards here with you today, is that correct?
19	A	That is correct, sir.
20	Q	Now, was the meeting that you have told us about the
21		only meeting that you attended, Mr. Calder, during the
22		month of October, of these employees in Commuter Airlines?
23	A	No, sir.
24	Q	And were there subsequent meetings to this October 2nd
25		meeting?

A That is correct, sir.

- Q And do you recall, first of all, how many such meetings?
- A Numerous, sir. That is the best answer I can give you at this point.
- And could you tell us over what time period these numerous meetings were held?
 - A Well, up and through the election dates.
 - And do you recall the election date?
- A Yes. I don't have the precise date. I would ask for assistance from the material which is in the record.
 - Well, perhaps I can get that to you from my notes. I think I can, anyway.

Mr. Chalenski tells me that the ballots were counted November 25th. I presume that would be the date that you called the date of the election, and would that be correct?

- A Yes, sir.
- And then, your Local was certified as a representative and would that have been on December 4th, and I believe that that is the correct date, of 1974?
- A I will accept the date that you give, sir.
- And so now, when the certification was made, I take it that that completed that transaction, would that be right, and now your Local has been certified by the Mediation Board as a representative of the employees of Commuter

1		Airlines?
2	A	As far as the Internation Brot: rhood of Teamsters was
3		concerned it concluded the matter, yes, sir.
4	Q	Now, let me ask you if, Mr. Calder, did you remain in
5		Binghamton after this meeting of October the 2nd?
6		Did you remain in Binghamton for some period of time
7		thereafter?
8	A	No, sir.
9	Q	You indicated that there were subsequent meetings,
10		numerous meetings, I think that you said, and did those
11		take place in the Binghamton area?
12	A	That is correct, sir.
13	Q	And let me ask you this: did you make trips up from
14		New York for the purpose of attending the various
15		meetings, as they came about?
16	А	That is correct, sir.
17	Q	And you didn't remain in Binghamton any protracted period
18		yourself, sir, is that correct?
19	А	That is correct, sir.
20	વ	And with reference to this tape that has been marked here
21		as Exhibit twenty-four for identification, you said that
22		that tape was delivered to you by someone. Was it by
23		Mr. Josephson, did you indicate?
24	А	That is correct, sir.
25	0	And are you able to tell us when you received it?

1 No, sir, not exactly. Shortly after as I testified A previously, shortly after the recording was made. 2 And was it delivered to you in New York City, or in 3 2 4 Binghamton? 5 In New York City. A In New York City. Now, I think that you indicated to us 6 7 that when you received that tape, you played it? 8 That is correct, sir. 9 And you heard it, correct? 0 10 That is correct. Now, let me ask you: had that tape -- well, first of 11 all let me ask you this: when you listened to it, 12 I take it that you recognized it to be a recording of 13 a meeting that had been held in the office of Commuter 14 Airlines, and a meeting attended by Mr. Winston, and 15 by Mr. Bell, and by co-pilots of the company would that 16 17 be right? 18 I recognize it as such. You recognize it as such. Well, were you told by 19 Mr. Josephson , were you told by Mr. Josephson that 20 that was what was on the tape, or that is that the 21 tape purported to contain? 22 I was told by Mr. Josephson that that was the case. 23

I may have mis-spoken. You were told that by Mr.

Josephson at the time that he gave you the tape?

24

25

0

1 That is correct, sir. A Now, had you suggested the taping of this meeting? Q 2 I did not, sir. 3 And do you know who thought it was good to tape this 4 meeting between Mr. Winston and the co-pilots? 5 MR. CHALENSKI: I object, Your Honor. 6 7 THE COUPT: Why? MR. CHALENSKI: There is no basis that 8 he knows. 9 THE COURT: The question was, 'do you 10 know, ' overruled. Do you know whose idea it was to 11 tape it? 12 BY MR. SHANAHAN: 13 Do you know whose idea it was to tape that meeting, 14 Mr. Calder? 15 I do not. 16 Would I be correct in understanding that the first time 17 you had any idea that anybody had taped that meeting 18 was when Mr. Josephson delivered the tape to you and 19 told you that that was what it was? 20 No, that is not correct, sir. 21 22 Would you inform us then when you first learned or 23 heard about either the tape of the meeting, or the 24 intention of someone to tape it? 25 A I learned of the intention of a possible taping of the

1	meeting on the day of the meeting when I was holding a
2	meeting of my own in the Binghamton area.
3	All right. Now, so that we get this in perspective, then
4	the meeting that was taped was a meeting that was held
5	at the Commuter Airline office on October the 5th, is
6	that correct, and is that the correct date of the taped
7	meeting?
8	A I am given to understand that that is the date, yes.
9	MR. SHANAHAN: Do we have that Exhibit?
10	Is there a date on there?
11	BY MR. SHANAHAN:
12	Q Mr. Calder, I show you this exhibit, and the inscription
13	well, I will show you first this side, and I don't know
14	which side it is Side one, all right. The tapes says
15	'Sat', and that stands for 'Saturday' I take it?
16	A That is correct.
17	Q Fifth October, 1974, correct?
18	A I have so testified.
19	Q And that is your writing of that date?
20	A No, that is not my writing, that date, sir.
21	Q I beg your pardon. I thought that you said that you
22	put the writing on there?
23	A I did say that.
4	Q Well, Mr. Calder, I just don't understand you.
5	A That is not my writing that day, the 5th of October,

1	of 1974.	
2	THE COURT: It is your writing	some other
3	date?	
4	THE WITNESS: That is correct,	Your Honor
5	BY MR. SHANAHAN:	
6	Q Well, what part of it did you write, Mr. Calde	r, and
7	that may be the easier way?	
8	A All of the black ink on top.	
9	Q Well, when you say the black ink, does that in	clude
10	tne date?	
11	A I say black ink to differentiate from the penc	il nota-
12	tions apparently put there by some official of	the court
13	Well, I don't want to be mysterious about it.	I am
14	simply trying to find out the meeting that was	taped
15	and did that meeting take place, according to	your
16	understanding on October 5th, of 1974?	
17	A That is correct, sir.	
18	Q All right. Now, do I understand that on that	same
19	date, October 5th of 1974, that you were havin	g a
20	meeting?	
21	A That is correct, sir.	
22	a And was your meeting held in Binghamton?	
23	A In the Binghamton area.	
24	Q In the Binghamton area, all right.	
25	THE COURT: Was that meeting wi	th some

1	different industry, I take it, the meeting that you were
2	holding?
3	THE WITNESS: No, Your Honor, it was a
4	meeting with the pilots.
5	THE COURT: Oh, the same company. Go
6	anead.
7 -	BY MR. SHANAHAN:
8	Q Now, your meeting was let me ask you this: was it
9	with pilots and co-pilots, Mr. Calder, or simply pilots?
10	A Pilots and co-pilots.
11	Q We are talking now about your meeting?
12	A That is correct.
13	Q All right. And your meeting was, just so we get the
14	concept of this, at about what time of day?
15	THE COURT: I think that we will get
16	that tomorrow morning, Mr. Shanahan, and maybe by then
17	we can straighten this out.
18	Don't talk about the case and don't let
19	anybody talk about it with you. We will start at
20	ten o'clock tomorrow morning.
21	(Whereupon, the jury was excused.)
22	THE COURT: Gentlemen, now are we doing
23	schedule wise?
24	MR. CHALENSKI: Monday, the way it is
25	going.

MR. SHANAHAN: If the Counsel doesn't finish his case until Monday, I am afraid that we miscalculated in suggesting Tuesday to Your Honor, yesterday. THE COURT: I understand that. If it goes over, it goes over. I am trying to be helpful to those who are going to follow you. We have another case here and there are a lot of lawyers involved. Thank you. THE CLERK: Court stands in recess until ten o'clock tomorrow morning. (Whereupon, a recess was taken at 4:50 p.m.)

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

Docket No.

76-1436

:

v.

JERRY WINSTON, BROOME COUNTY AVIATION, INC., COMMUTER AIRLINES INC., and THEODORE (TED) BELL,

OF SERVICE

Defendants-Appellants.

STATE OF NEW YORK

: ss.:

COUNTY OF NEW YORK)

MARVIN WEXLER, being sworn, states:

I am an attorney associated with PAUL, WEISS, RIFKIND, WHARTON & GARRISON, attorneys for appellants herein. On March 24, 1977 a clerk employed by my firm personally served two copies of the attached Brief of the Defendants-Appellants, containing revised record references in accordance with Rules 30(c) and 31(b) of the Federal Rules of Appellate Procedure and in accordance with a Stipulation concerning the submission of a deferred Appendix, and also served two copies of the deferred Appendix (one copy of the exhibit volume) on Paul V. French, Esq., United States Attorney for the Northern

Sworn to before me this 24th day of March, 1977.

1 Colonelle Scapper

ANTOINETTE SCAFFIDI
Notary Public, State of New York
No. 41-87/3200 Queens County
Certificate Med in Flow York County
Commission Explication 20, 1-76

